International Labour Conference
90th Session 2002

Report III
(Part 1A)

Third item on the agenda:
Information and reports on the application
of Conventions and Recommendations

Report of the Committee of Experts on the Application of Conventions and Recommendations

(articles 19, 22 and 35 of the Constitution)

General Report
and observations concerning particular countries

International Labour Office Geneva

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This part of the report is published in a separate volume as Report III (Part 1B).

PART ONE

General Report

GENERAL REPORT

I. Introduction

1. The Committee of Experts on the Application of Conventions and Recommendations, appointed by the Governing Body of the International Labour Office to examine the information and reports submitted under articles 19, 22 and 35 of the Constitution by States Members of the International Labour Organization on the action taken with regard to Conventions and Recommendations, held its 72nd Session in Geneva from 22 November to 7 December 2001. The Committee has the honour to present its report to the Governing Body.

2. The composition of the Committee is as follows:

Mr. Rafael ALBURQUERQUE (Dominican Republic),

Professor of Labour Law, Pontificia Universidad Católica Madre y Maestra; Former Minister of Labour; Special Representative of the Director-General of the ILO for cooperation with Colombia from September 2000 to June 2001; Doctor of Laws.

Mr. Anwar Ahmad Rashed AL-FUZAIE (Kuwait),

Professor of Private Law of the University of Kuwait; attorney; member of the International Court of Arbitration of the International Chamber of Commerce (ICC); member of the Administrative Board of the Centre of Arbitration of the Chamber of Commerce and Industry of Kuwait; former Director of Legal Affairs of the Municipality of Kuwait; former Adviser to the Embassy of Kuwait (Paris).

Ms. Janice R. BELLACE (United States),

Samuel Blank Professor and Professor of Legal Studies and Management of the Wharton School, University of Pennsylvania; Vice-Chairman and Founding President, Singapore Management University; Senior Editor, Comparative Labor Law and Policy Journal; member of the Executive Board of the International Industrial Relations Association; member of the Executive Board of the US branch of the International Society of Labor Law and Social Security; member of the Public Review Board of the United Automobile, Aerospace and Agricultural Implements Workers' Union; former secretary of the Section on Labor Law, American Bar Association.

Mr. Prafullachandra Natvarlal BHAGWATI (India),

Former Chief Justice of India; former Chief Justice of the High Court of Gujarat; former Chairman, Legal Aid Committee and Judicial Reforms Committee, Government of Gujarat; former Chairman, Committee on Juridicare, Government of India; former Chairman of the Committee appointed by the Government of India for implementing legal aid schemes in the country; member of the International Committee on Human Rights of the International Law Association; member of the Editorial Committee of Reports of the Commonwealth; Chairman of the Advisory Board of the Centre for Independence of Judges and Lawyers, Geneva; Vice-President of "El Taller"; Chairman of the Standing Independent Group for scrutinizing and monitoring mega power projects in India; Chairman of the United Nations Human Rights Committee; former member of the International Panel of Eminent Persons for investigating causes of genocide in Rwanda by the OAU; Regional Àdviser to the High Commissioner for Human Rights for the Asia Pacific Region; member of the International Advisory Council of World Bank for Legal and Judicial Reform; Fellow of the American Academy of Arts and Sciences.

Ms. Laura COX, QC (United Kingdom),

LL B, LL M of the University of London; Barrister-at-Law, specializing in employment law, discrimination and human rights; Recorder and part-time Judge of the Employment Appeal Tribunal; Head of Cloisters Chambers, Temple, London; Chairperson of the Bar Council Equal Opportunities Committee; Bencher of the Inner Temple; one of the founding Lawyers of Liberty (formerly the National Council for Civil Liberties); member of the Council of the Independent Human Rights Organisation JUSTICE; member of the Industrial Law Society; Vice-President of the Institute of Employment Rights; member of the Specialist Bar Associations for Employment Law, Industrial Injuries, Professional Negligence and Public and Administrative Law; member of the Advisory Council, Human Rights Act Research Unit, LSE, London; Chairperson of the Board of INTERIGHTS, the International Centre for the Legal Protection of Human Rights.

The Right Honourable Sir William DOUGLAS, PC, KCMG (Barbados),

Former Ambassador; former Chief Justice of Barbados; former President of the ILO Administrative Tribunal; former Judge of the Administrative Tribunal of the Inter-American Development Bank; former Chairman, Commonwealth Caribbean Council of Legal Education; former Chairman, Inter-American Juridical Committee; former Judge of the High Court of Jamaica.

Ms. Blanca Ruth ESPONDA ESPINOSA (Mexico),

Doctor of Law; Professor of International Public Law at the Law Faculty of the National Autonomous University of Mexico; former President of the Senate of the Republic (1989) and of the Foreign Relations Committee; former President of the Population and Development Committee of the Chamber of Deputies and member of the Labour and Social Security Committee; former President of the Inter-American Parliamentary Group on Population and Development and former Vice-President of the Global Forum of Spiritual and Parliamentary Leaders; member of the National Federation of Lawyers and of the Lawyers' Forum of Mexico; recipient of the award for Juridical Merit "the Lawyer of the Year (1993)"; former Director-General of the National Institute for Labour Studies; former Commissioner of the National Migration Institute and former editor of the Mexican Labour Review.

Ms. Robyn A. LAYTON, QC (Australia),

LL M, Barrister-at-Law; Director, National Rail Corporation; Chairperson of the Human Rights Committee of the Law Society of South Australia; former Commissioner on Health Insurance Commission; former Chairperson of the Australian Health Ethics Committee of the National Health and Medical Research Council; former Honorary Solicitor for the South Australian Council for Civil Liberties; former Solicitor for the Central Aboriginal Land Council; former Chairman of the South Australian Sex Discrimination Board; former Judge and Deputy President of the South Australian Industrial Court and Commission; former Deputy President of the Federal Administrative Appeals Tribunal.

Ms. Ewa LETOWSKA (Poland),

Professor of Civil Law (Institute of Legal Studies of the Polish Academy of Sciences); former parliamentary ombudsman; Justice, Highest Administrative Court; member of the Helsinki Committee; member of the International Commission of Jurists; member of the Polish Academy of Arts and Sciences; member of the Academy of Comparative Law, Paris.

Mr. Pierre LYON-CAEN (France),

Advocate-General, Court of Cassation (Social Division); President, Journalists Arbitration Commission; Former Deputy Director, Office of the Minister of Justice; Graduate of the Ecole Nationale de la Magistrature.

Mr. Sergey Petrovitch MAVRIN (Russian Federation),

Professor of Labour Law (Law Faculty of the St. Petersburg State University); Doctor of Law; Chief of the Labour Law Department; former Director of the Interregional Association of Law Schools; Expert of the Labour Committee of the State Duma and Regional Legislative Assembly of St. Petersburg.

Baron Bernd von MAYDELL (Germany),

Professor of Civil Law, Labour Law and Social Security Law; Director of the Max Planck Institute for Foreign and International Social Law (Munich); Vice-President of the International Society of Labour Law and Social Security and President of the German Section of the Society.

Mr. Cassio MESQUITA BARROS (Brazil),

Barrister-at-Law specializing in labour relations (São Paulo); Titular Professor of Labour Law at the Law School of the public University of São Paulo and the Law School of the private Pontifical Catholic University of São Paulo; President of the Arcadas Support Foundation for the Faculty of Law of the University of São Paulo; Founder and President of the Centre for the Study of International Labour Standards of the University of São Paulo; Professor *honoris causa* of the ICA University of Peru and the University Constantin Brancusi (Romania); Academic Adviser, San Martin de Porres University (Lima); honorary member of the Association of Labour Lawyers (São Paulo); Honorary President of the "Asociación Iberoamericana de Derecho del Trabajo y Seguridad Social" (Buenos Aires, Argentina); Honorary President of the "Academia Nacional do Direito do Trabalho" (Rio de Janeiro); member of the International Academy of Law and Economy (São Paulo); member of the Standing Committee on Social Rights, the advisory body to the Ministry of Labour; Titular member of the "Academia Iberoamericana de Derecho del Trabajo y de la Seguridad Social" (based in Madrid).

Mr. Benjamin Obi NWABUEZE (Nigeria),

LL D (London); Hon. LL D (University of Nigeria); Senior Advocate of Nigeria; Laureate of the Nigerian National Order of Merit; former Professor of Law at the University of Nigeria; former Professor and Dean of the Faculty of Law at the University of Zambia; former member of the Governing Council, Nigerian Institute of International Affairs; Fellow of the Nigerian Institute of Advanced Legal Studies; former member, Council of Legal Education; former Minister of Education for Nigeria; former Constitutional Adviser to the Government of Kenya (1992), Ethiopia (1992) and Zambia (1993); Honourable Fellow of four higher educational institutions in Nigeria; International Intellectual of the Year for the year 2001.

Mr. Edilbert RAZAFINDRALAMBO (Madagascar),

Honorary First President of the Supreme Court of Madagascar; former President of the High Court of Justice; former Professor of Law at the University of Madagascar and at the Malagasy Institute for Judiciary Studies; former Arbitrator of the ICSID and of the International Civil Aviation Organization; former member of the International Council for Commercial Arbitration; former member of the International Court of Arbitration of the International Chamber of Commerce; Arbitrator at the Joint Court of Justice and Arbitration, ECOWAS (Africa); former Judge of the Administrative Tribunal of the ILO; former Alternate Chairman of the Staff Committee of Appeals, African Development Bank; former Vice-Chairman of the United Nations International Law Commission.

Mr. Miguel RODRIGUEZ PIÑERO Y BRAVO FERRER (Spain),

Doctor of Law; President of the Second Section of the Council of State (Legal, Labour and Social Matters); Professor of Labour Law; Doctor honoris causa of the University of Ferrara (Italy); President Emeritus of the Constitutional Court; Vice-President of the Spanish Association of Labour Law and Social Security; member of the European Academy of Labour Law, the Ibero-American Academy of Labour Law and the Andalusian Academy of Social Sciences and the Environment; Director of the review Relaciónes laborales; President of the SIGLO XXI Club; recipient of the gold medallion of the University of Huelva; former President of the National Advisory Commission on Collective Agreements and President of the Andalusian Industrial Relations Council; former Dean of the Faculty of Law of the University of Seville; former Director of the University College of La Rábida.

Mr. Amadou SÔ (Senegal),

Honorary President of the Council of State; Judge of the Constitutional Court.

Mr. Boon Chiang TAN (Singapore),

BB M(L), PP A, LL B (London), Dip. Arts; Barrister-at-Law and Solicitor, Singapore; former President of the Industrial Arbitration Court of Singapore; former member of the Court and Council of the University of Singapore; former Vice-President (Asia) of the International Society of Labour Law and Social Security.

Mr. Budislav VUKAS (Croatia),

Professor of Public International Law at the University of Zagreb, Faculty of Law; member of the International Tribunal for the Law of the Sea; member of the Institute of International Law; member of the Permanent Court of Arbitration; member of the OSCE Court of Conciliation and Arbitration; member of the International Council of Environmental Law; member of the Commission on Environmental Law of the International Union for Conservation of Nature and Natural Resources.

Mr. Toshio YAMAGUCHI (Japan),

Honorary Professor of Law at the University of Tokyo; Professor of Law at Kanagawa University; President of the National Port Development Council; former Chairman of the Central Labour Relations Commission of Japan; former member of the Executive Committee of the International Society of Labour Law and Social Security; full member of the International Academy of Comparative Law.

3. The Committee noted with regret that Mr. von Maydell and Mr. Yamaguchi were not able to participate in its work.

4. The Committee was deeply saddened to learn of the death, on 18 May 2001, of Mr. André Zenger, former Chief of the Application of Standards Branch of the International Labour Standards Department, and most recently Adviser to the Department. Mr. André Zenger was also acting director of the International Labour Standards Department from the end of 1998 to the end of 2000. The Committee wishes to express the esteem and friendship which all its members felt for André Zenger, as well as its gratitude for the devotion and competence he brought to the cause of international labour standards.

5. At its session, the Committee welcomed Mr. Jean-Claude Javillier, the new Director of the International Labour Standards Department.

6. Just before the session closed, the President informed the Committee of his decision to step down from his position as Chairperson and to retire from the Committee. The Committee took note of his resignation and expressed its sincere regret, while commending him warmly for the outstanding and inspired way in which he had carried out the important and exacting task of leading the Committee for so many years. The Committee subsequently elected Ms. Robyn Layton as Chairperson until November 2002.

Seventy-fifth anniversary of the Committee of Experts

7. This year marks the 75th anniversary of the creation of the Committee of Experts on the Application of Conventions and Recommendations.

8. This event was celebrated at a special sitting of the Committee in the presence of the Director-General and the two Vice-Chairpersons of the Conference Committee on the Application of Standards. On that occasion, a volume in honour of the 75th anniversary was presented to the Chairperson of the Committee by the secretariat. The Committee's functions and working methods have substantially developed as its workload has grown over the years.

9. Although the resolution adopted by the International Labour Conference at its 8th Session in 1926 did not spell out the criteria for the composition of future Committees, the Committee itself has, since its creation, had numerous occasions, during the examination of its mandate and its working methods, to identify on the basis of an analysis of the established practice of the Governing Body with regard to the nomination of Committee members the principles the Governing Body has observed in this matter, which are: independence, impartiality, competence, and first-hand experience of different legal, economic and social systems.[1] The alphabetical list of the members of the Committee since its establishment is as follows:

Members of the Committee of Experts on the Application of Conventions and Recommendations (1927-2001)

Mr. Benjamin AARON (United States)
Mr. Grantley ADAMS (Barbados)
Sir Adetokunbo ADEMOLA, C.G.F.R., K.B.E., C.F.R., P.C. (Nigeria) **(Chairperson)**
Mr. Roberto AGO (Italy)
Mr. Anwar Ahmad Rashed AL-FUZAIE (Kuwait)
Ms. Badria AL-AWADHI (Kuwait)
Baron Frederick van ASBECK (Netherlands)
Mr. R.N. BANERJEE, C.S.I., C.I.E. (India)
Mr. Henri BATIFFOL (France)
Mr. Günther BEITZKE (Federal Republic of Germany)
Ms. Janice R. BELLACE (United States)
Mr. Paal BERG (Norway)
Mr. Prafullachandra Natvarlal BHAGWATI (India)
Ms. Hanna BOKOR-SZEGÖ (Hungary)
Mr. Boutros BOUTROS-GHALI (Egypt)
Mr. Choucri CARDAHI (Lebanon)
Mr. Antonio Ferreira CESARINO, Jr. (Brazil)
Mr. César CHARLONE (Uruguay)
Mr. Atul CHATTERJEE (India)
Dr. Ta CHEN (China)
Mr. Archibald COX (United States)
Ms. Laura COX (United Kingdom)
Prof. H.W. Carless DAVIS, C.B.E. (United Kingdom)
Sir William DOUGLAS (Barbados) **(Chairperson)**
Mr. Waldemar ERICH (Finland)
Ms. Blanca Ruth ESPONDA ESPINOSA (Mexico)
Mr. Isaac FORSTER (Senegal)
Sir Selwyn FREMANTLE (India)
Mr. Pralhad Balacharya GAJENDRAGADKAR (India)
Mr. Enrique GARCIA SAYÁN (Peru) **(Chairperson)**
Mr. Jules GAUTIER (France) **(Chairperson)**
Mr. GINI (Italy)
Mr. Marcel GRÉGOIRE (Belgium)
Mr. Arnold GUBINSKI (Poland)
Mr. Paul M. HERZOG (United States)
Mr. Katswichi IKAWA (Japan)

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[1] Report of the CEACR, III, Part 4A, para. 18, 1987.

Members of the Committee of Experts on the Application of Conventions and Recommendations (1927-2001)

Mr. Semion A. IVANOV (USSR)

The Begum Raàna Liaquat Ali KHAN (Pakistan)

Mr. Harold Stewart KIRKALDY (United Kingdom)

Mr. E. KOROVINE (USSR)

Mr. de KOSCHEMBAHR-LYSKOWSKI (Poland) (substitute)

Mr. S. KURIYAMA (Japan)

Ms. Robyn A. LAYTON, Q.C. (Australia) **(Chairperson)**

Ms. Ewa LETOWSKA (Poland)

Mr. Roman Zinovievich LIVSHITZ (Russian Federation)

Mr. Helio LOBO (Brazil)

Mr. L.A. LUNZ (USSR)

Mr. Waclaw MAKOWSKI (Poland)

Mr. Norman Washington MANLEY, K.C. (Jamaica)

Mr. Seguey Petrovitch MAVRIN (Russian Federation)

Baron Bernd von MAYDELL (Germany)

Mr. Kéba MBAYE (Senegal)

Mr. Frank McCULLOCH (United States)

Mr. Arnold D. McNAIR, C.B.E., LL. D. (United Kingdom)

Mr. Cassio MESQUITA BARROS (Brazil)

Mr. Jean MORELLET (France)

Mr. Ramaswami MUDALIAR, K.C.S.I., D.C.L. (Oxon) (India) **(Chairperson)**

Mr. von NOSTITZ (Germany)

Mr. Benjamin Obi NWABUEZE (Nigeria)

Prof. Tomasso PERASSI (Italy)

Mr. Sture PETRÉN (Sweden)

Mr. Otakar QUADRAT (Czechoslovakia)

Mr. Alonso Rodrigues QUEIRO (Portugal)

Prof. William RAPPARD (Switzerland)

Mr. Edilbert RAZAFINDRALAMBO (Madagascar)

Mr. Miguel RODRÍGUEZ PIÑERO Y BRAVO FERRER (Spain)

Mr. José Maria RUDA (Argentina)

Mr. Paul RUEGGER (Switzerland)

Mr. Isidoro RUIZ MORENO (Argentina)

Mr. Oscar SARAIVA (Brazil)

Mr. Georges SCELLE (France) **(Chairperson)**

Mr. Akira SHIGEMITSU (Japan)

Mr. Friedrich SITZLER (Federal Republic of Germany)

Mr. Amadou SÔ (Senegal)

Mr. Max SØRENSEN (Denmark)

Ms. G.J. STEMBERG (Netherlands)

Mr. Arnaldo Lopes SUSSEKIND (Brazil)

Mr. Antti Johannes SUVIRANTA (Finland)

Mr. Boon Chiang TAN (Singapore)

Dr. Shao Hwa TAN (China)

Mr. Paul TSCHOFFEN (Belgium) **(Chairperson)**

Mr. Senjin TSURUOKA (Japan)

Mr. Grigory TUNKIN (USSR)

Mr. Fernando URIBE RESTREPO (Colombia)

Mr. Joseph J.M. VAN DER VEN (Netherlands)

Mr. Jean-Maurice VERDIER (France)

Mr. Joza VILFAN (Socialist Federal Republic of Yugoslavia)

Mr. Budislav VUKAS (Croatia)

Members of the Committee of Experts on the Application of Conventions and Recommendations (1927-2001)

Mr. Earl WARREN (United States)
Sir John WOOD (United Kingdom)
Mr. Charles E. WYSANSKI, Jr. (United States)
Mr. Toshio YAMAGUCHI (Japan)
Mr. Ilia YANOULOFF (Bulgaria)
Mr. Kisaburo YOKOTA (Japan)
Mr. Shunzo YOSHISAKA (Japan)

10. At its first session in May 1927, the Committee was composed of eight members, and met for three days. It had to examine 180 reports on the application of ratified Conventions from 26 of the ILO's 55 member States. The Conference had by then adopted 23 Conventions and 28 Recommendations, and the number of ratifications of Conventions was 229. The Committee's membership has now expanded to 20 members, and its annual meeting time to nearly three weeks. The Conference has adopted 184 Conventions and 192 Recommendations, and the number of ratifications has grown to 6,983 ratifications. There are in addition 1,980 declarations of application of Conventions to non-metropolitan territories. There are today 175 member States in the International Labour Organization.

11. The Conference resolution of 1926 which led to establishment of the Committee described its purpose as "making the best and fullest use" of the reports on ratified Conventions. Since the constitutional reforms of 1946, the Committee has also been called upon to consider the information due from governments on the submission of newly adopted Conventions and Recommendations to the competent national authorities, to examine the application of ratified Conventions in non-metropolitan territories, and to consider the effect given to unratified Conventions and on Recommendations, resulting in the "General Surveys" the Committee now carries out. The Committee is also asked to exercise certain functions in relation to instruments adopted under the auspices of other international organizations, as is the case for reports from States which have ratified the European Code of Social Security.

12. The Committee's working methods within its mandate have also evolved over the years. Thus, in 1949 the Committee began paying special attention to first reports after ratification (now over 200 first reports have to be examined most years), and it has asked the Office to prepare comparative analyses of them. In 1959 the Committee suggested that detailed reporting be put on a two-year cycle, subject to the safeguards required in certain cases. What was at first just a suggestion by the Committee has become the working method of choice for adjusting the workload. In 1993, the Governing Body decided to modify the reporting system, with detailed reports to be submitted every two years for a group of Conventions regarded as "priority" ones, and the reporting cycle of "simplified" reports on all other Conventions being due every five years. At the same time, the Governing Body decided that governments should submit detailed reports in the event of major changes affecting the application of Conventions and that the supervisory bodies could request additional reports where necessary. On the occasion of its 40th anniversary in 1967, the Committee put forward a suggestion which led to the introduction in 1968 of the procedure of direct contacts, which consists of on-the-spot missions with a view to developing dialogue with governments and employers' and workers' organizations in order to overcome difficulties in the application of Conventions.

13. Finally, since 1964 the Committee has listed the cases in which governments, in response to its earlier comments, have made changes in their law and practice in order to give fuller effect to ratified Conventions. Since then, the Committee has been able to record more than 2,276 such cases in its reports. Just last year, the Committee also began noting cases in which it had been able to note "with interest" measures that have been taken in this same sense, and in the first year of its use the Committee noted 159 instances in 85 countries. The Committee is well aware that there are also many "invisible" or less apparent instances where international labour standards have exerted a positive influence. In this respect, the Committee hopes the Office will undertake a thorough study of the impact of international labour standards today, both in general and in selected countries, to document this phenomenon. It should be mentioned in this context that a new type of general discussion based on an integrated approach to ILO standards-related activities has been recently introduced by the Governing Body with a view to increasing the coherence, relevance and impact of standards-related activities in the light of the constitutional objectives of the Organization. The first application of this approach concerns the area of occupational safety and health and has been placed on the agenda of the 91st Session (2003) of the International Labour Conference. Finally, to contribute to strengthening the impact of international labour standards, the International Labour Office began stationing in 1980 "regional advisers" on international labour standards in different regions of the world, and this has now evolved into the network of standards specialists in the multidisciplinary advisory teams of the Office.

14. Throughout all these years, as the Committee's workload, working methods and responsibilities have evolved, the principles of objectivity, impartiality and independence which animate its work have not changed. It continues to examine the application of Conventions and Recommendations, and of related constitutional obligations, in a uniform manner for all States. The rights and obligations under the instruments adopted by the International Labour Conference are the same for all, and should be applied in a uniform way in all the member States.

15. This brief review of the Committee's first 75 years would be incomplete without mentioning the role of the Committee in the context of the ILO's overall supervisory and promotional efforts. The Committee was created at the same time as the Conference Committee on the Application of Standards. While there have at times been differences in approach between the two committees, they have developed a solidly collaborative relationship especially in recent years, and each relies on the work of the other. The Committee is also finding an increasing interaction with the committees set up to examine complaints and representations under articles 24 and 26 of the Constitution, as was the case for the complaint concerning the application by Myanmar of the Forced Labour Convention, 1930 (No. 29), and with the committees examining a rising number of representations.

16. The supervisory mechanisms of the ILO have long been cited as the most advanced and best functioning in the international system. The Committee is convinced that this is in fact the case. At the same time, it notes that the Governing Body is carrying out a review of the ILO's supervisory machinery with a view to strengthening it and increasing its impact.[2] In this context the Committee has already begun a process of assessment of its own working methods, which it will further develop in future sessions so that there will be a thorough re-examination of ways to improve its efficiency in the overall context of the supervisory systems within the ILO.

17. The Committee is proud of its 75-year history and wishes to ensure its continued effectiveness and relevance for the future. The Committee is examining the possibility of producing a separate publication covering its history, role and work and containing contributions from some of its members.

Fiftieth anniversary of the Committee on Freedom of Association

18. The Committee commends the Committee on Freedom of Association on the occasion of its 50th anniversary on the valuable contribution it has made to greater respect for this fundamental right around the world.

19. In carrying out its primary role of elucidating the facts and proposing solutions for the cases submitted to it, the Committee on Freedom of Association has been the origin of a number of important decisions setting forth the principles according to which freedom of association should be applied in different circumstances. The Committee, having tripartite composition, has a certain number of special characteristics which account for its success, including the extensive notion given to the receivability of complaints, the fact that it examines complaints submitted by diverse workers' and employers' organizations alleging specific violations, and even where the relevant Conventions have not been ratified. Furthermore, its frequent use of on-the-spot missions, and the fact that conciliation is central to its search for solutions have also contributed to its significant impact. Its positive results extend to numerous areas of freedom of association such as the grant of the right to organize to certain categories of workers, recognition of the right to strike, the enactment of trade union legislation based on ILO standards following the restoration of democracy, the release of trade unionists in detention, the reinstatement of workers dismissed for trade union activities, the lifting of state intervention in trade unions, and the re-establishment of suspended organizations.

20. The present Committee attaches great importance to the permanence of the privileged links it has with the Committee on Freedom of Association. Although different in some ways, both Committees apply the same principles of independence, impartiality and objectivity, and their conclusions and comments have a universal impact. Moreover, the complementarity between the two Committees is an important resource for the ILO's freedom of association supervisory system. With this in mind, the Committee firmly supports the Committee on Freedom of Association in the pursuit and extension of its endeavours to ensure that this fundamental freedom remains a daily reality for everyone everywhere.

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[2] See the following documents of the Governing Body: GB.277/LILS/2; GB.279/4; GB.280/LILS/3; GB.280/12/1; GB.282/LILS/5; GB.282/8/2.

Working methods

21. In pursuance of its terms of reference, as revised by the Governing Body at its 103rd Session (Geneva, 1947), the Committee was called upon to examine:

(i) the annual reports under article 22 of the Constitution on the measures taken by Members to give effect to the provisions of the Conventions to which they are parties, and the information furnished by Members concerning the results of inspections;

(ii) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution;

(iii) information and reports on the measures taken by Members in accordance with article 35 of the Constitution.

22. The Committee, after an examination and evaluation of the above reports and information, drew up its present report, consisting of the following three parts:

(a) Part One is the General Report in which the Committee reviews general questions concerning international labour standards and related international instruments and their implementation;

(b) Part Two contains observations concerning particular countries on the application of ratified Conventions (see section I and paragraphs 84 to 123 below), on the application of Conventions in non-metropolitan territories (see section II and paragraphs 84 to 123 below), and on the obligation to submit instruments to the competent authorities (see section III and paragraphs 124 to 138 below); and

(c) Part Three, which is published in a separate volume (Report III (Part 1B)), consists of a General Survey on the Dock Work Convention, 1973 (No. 137), and Recommendation, 1973 (No. 145), on which governments were requested to submit reports under article 19 of the ILO Constitution.

23. The Committee's task consists of indicating the extent to which the law and practice in each State appears to be in conformity with ratified Conventions and the obligations undertaken by that State by virtue of the ILO Constitution. To accomplish this task, the Committee follows the principles cited above in paragraph 9, and in continuing to apply the working methods recalled in its 1987 report.[3]

24. Furthermore, since 1999 the Committee has undertaken an examination of its working methods. Last year, the Committee paid particular attention to drafting its report in a manner to make it more accessible and to draw the attention of a larger readership to the importance of the provisions of Conventions and their practical application. This year, in order to guide its reflections on this matter in both an efficient and thorough manner, the Committee decided to create a subcommittee. This subcommittee has as a mandate to examine not only the working methods of the Committee as strictly defined but also any related subjects, and to make appropriate recommendations to the Committee.[4]

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[3] International Labour Conference, 73rd Session, 1987, Report III(4A), pp. 17-19, paras. 37-49.

25. A spirit of mutual respect, cooperation and responsibility has consistently prevailed in the Committee's relations with the International Labour Conference and its Committee on the Application of Standards. The Committee of Experts takes the proceedings of the Conference Committee into full consideration, not only in respect of general matters concerning standard-setting activities and supervisory procedures, but also in respect of specific matters concerning the way in which States fulfil their standards-related obligations. In this context, the Committee again welcomed the participation of the Chairperson of its 71st Session as an observer in the general discussion of the Committee on the Application of Standards of the 89th Session of the International Labour Conference (June 2001). It noted the request by the abovementioned Committee for the Director-General to repeat this invitation for the 90th Session of the International Labour Conference (June 2002). The Committee accepted the invitation.

26. The Chairperson of the Committee of Experts invited the Employer and Worker Vice-Chairpersons of the Committee on the Application of Standards of the 89th Session of the International Labour Conference to pay a joint visit to this Committee at its present session. Both accepted this invitation and discussed various matters with the Committee in a special session.

II. General information on international labour standards

Recent developments

A. Membership of the Organization

27. Since the Committee's last session, the number of member States of the ILO has remained unchanged at 175.

B. New standards adopted by the Conference in 2001 and the coming into force of Conventions

28. The Committee notes that at its 89th Session (June 2001) the International Labour Conference adopted the Safety and Health in Agriculture Convention (No. 184), and Recommendation (No. 192), 2001.

29. No Conventions entered into force in 2001.

C. Policy on standards

30. The Committee notes the continued discussions in the Governing Body on possible improvements in ILO standards-related activities. The object of these discussions at the 282nd Session of the Governing Body (November 2001) was the "Examination of standards-related reporting requirements" following a review of the modifications introduced in 1993 to the ILO supervisory system.[5]

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[4] Ms. Laura COX was charged by the Committee to preside over the discussions of this subcommittee which will be composed of a core group and will be open to any member of the Committee wishing to participate in it.

31. The Committee notes that pursuant to this examination and review, the Governing Body has taken the following decisions regarding the standards-related reporting requirements:

(a) to maintain the two-year and five-year reporting cycles, for the Conventions presently in each cycle;

(b) to approve the grouping of fundamental and priority Conventions, with countries divided alphabetically for reporting purposes;

(c) to approve the principle of arranging all other Conventions by subject groups for reporting purposes;

(d) to discontinue detailed reports on fundamental and priority Conventions unless there are changes, or they are requested by supervisory bodies;

(e) to discontinue the automatic requirement to send a detailed report if a government fails in its obligation to send a simplified report;

(f) to discontinue the automatic requirement for detailed "second first" reports;

(g) to maintain the present timing of the session of the Committee of Experts on the Application of Conventions and Recommendations, and the due dates for reports; and

(h) to promote cooperation through agreements on country-by-country assistance programmes to resolve problems of application of Conventions and related questions.

32. The Committee also notes that the Governing Body decided to invite the Director-General to prepare for the 283rd Session (March 2002):

(a) a draft grouping of non-fundamental Conventions for purposes of reporting;

(b) all other details, including the timetable, for the implementation of the modifications in the reporting system as outlined in the decisions referred to under (b) to (f) in the preceding paragraph; and

(c) an overview of the discussions which have taken place on possible improvements in the supervisory mechanism of the ILO, indicating what has already been discussed and what remains to be dealt with.

33. The Committee notes the decision of the Governing Body to place on the agenda of the International Labour Conference a new type of general discussion based on an integrated approach to ILO standards-related activities[6] and notes that the first application of this approach at the 91st Session (2003) of the International Labour Conference will focus on occupational safety and health.[7] In November 2001, the Governing Body held a first discussion on the proposals for the agenda of the 92nd Session (2004) of the Conference with regard to a general discussion based on the integrated approach in the following subject areas: gender equality, migrant workers, and child labour. A decision will be taken at the 283rd Session (March 2002) of the Governing Body.

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[5] GB.282/LILS/5.

[6] GB.279/4 and GB.279/5/1.

[7] GB.279/5/2 and GB.280/2.

34. The Committee notes with continued interest the decisions by the Governing Body based on the work of the Working Party on Policy regarding the Revision of Standards.[8] The Governing Body so far has taken decisions with regard to 181 Conventions and 191 Recommendations which can be grouped into three principal categories: up-to-date instruments, instruments to be revised, and outdated instruments. At this stage, 71 Conventions are considered as up to date and will be the subject of specific promotional activities, 24 Conventions have been approved by the Governing Body for revision, and 54 older Conventions have been proposed for denunciation, accompanied by the ratification of a corresponding more recent or revising Convention. The Committee wishes to emphasize in this regard, that the fact that certain Conventions are not fully up to date does not mean that they do not provide valuable protection to workers in countries which have not yet been able to ratify more recent Conventions. In the case of 34 Conventions, the constituents are invited to provide additional information to the Office to allow the Governing Body to take decisions concerning them. The Committee recalls that the Governing Body has emphasized the importance of follow-up measures to its decisions regarding standards policy.

35. The Committee also recalls that the Conference decided in June 1997 to adopt an amendment to the ILO Constitution and modify its Standing Orders to allow for the abrogation or withdrawal of obsolete Conventions and Recommendations. In December 2001, this constitutional amendment has been ratified or accepted by 67 member States. The Conference already withdrew five Conventions at its June 2000 session, and the withdrawal of 20 Recommendations is on the agenda of the 90th Session (2002) of the Conference.

D. Ratifications and denunciations

Ratifications

36. The list of ratifications by Convention and by country[9] indicates a total of 6,858 ratifications as at 31 December 2000. From 1 January 2001 to the end of the Committee's session on 7 December 2001, 147 ratifications had been received from 76 countries.

Denunciations

37. Since the Committee's last session, the Director-General has registered the following denunciations:

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[8] GB.282/LILS/WP/PRS/1, GB.282/LILS/6 and GB.282/8/2.

[9] International Labour Conference, 89th Session, Geneva, 2001, Report III (Part 2).

State	Denunciations ***not accompanied*** by the ratification of a revising Convention
Austria	**C.4** Night Work (Women) Convention, and **C.89** Night Work (Women) Convention (Revised)
Cyprus	**C.89** Night Work (Women) Convention (Revised), and its Protocol of 1990
Czech Republic	**C.89** Night Work (Women) Convention (Revised), and its Protocol of 1990
Dominican Republic*	**C.89** Night Work (Women) (Revised)
Italy	**C.4** Night Work (Women) Convention
Zambia	**C.89** Night Work (Women) Convention (Revised)

*** The Dominican Republic ratified Convention No. 171 (night work), 1990, in 1993.**

State	Denunciations ***accompanied*** by the ratification of a revising Convention
Angola	**C.138** Minimum Age – **(ratified)**
	C.7 Minimum Age (Sea) – **(denounced)**
Bahamas	**C.138** Minimum Age – **(ratified)**
	C.5 Minimum Age (Industry) – **(denounced)** **C.7** Minimum Age (Sea) – **(denounced)** **C.10** Minimum Age (Agriculture) – **(denounced)**
Benin	**C.138** Minimum Age – **(ratified)**
	C.5 Minimum Age (Industry) – **(denounced)** **C.33** Minimum Age (Non-Industrial Employment) – **(denounced)**
Brazil	**C.138** Minimum Age – **(ratified)**
	C.5 Minimum Age (Industry) – **(denounced)** **C.58** Minimum Age (Sea) (Revised) – **(denounced)**
Cameroon	**C.138** Minimum Age – **(ratified)**
	C.5 Minimum Age (Industry) – **(denounced)**
Chad	**C.132** Holidays with Pay (Revised) – **(ratified)**
	C.52 Holidays with Pay – **(denounced)**

State	Denunciations ***accompanied*** by the ratification of a revising Convention
Colombia	**C.138** Minimum Age – **(ratified)**
	C.5 Minimum Age (Industry) – **(denounced)** **C.7** Minimum Age (Sea) – **(denounced)** **C.10** Minimum Age (Agriculture) – **(denounced)** **C.15** Minimum Age (Trimmers and Stokers) – **(denounced)**
Italy	**C.183** Maternity Protection – **(ratified)**
	C.103 Maternity Protection (Revised) – **(denounced)**
Lesotho	**C.138** Minimum Age – **(ratified)**
	C.5 Minimum Age (Industry) – **(denounced)**
New Zealand	**C.160** Labour Statistics – **(ratified)**
	C.63 Concerning Statistics of Wages and Hours of Work – **(denounced)**
Panama*	**C.138** Minimum Age – **(ratified)**
	C.10 Minimum Age (Agriculture) – **(denounced)**

* **The terms of ratification of Convention No. 138 did not in this case result in the automatic denunciation of Convention No. 10.**

Declaration

38. The **United Kingdom** made a declaration on behalf of Guernsey, excluding the Bailiwick of Guernsey, which includes the authorities of the islands of Alderney and Sark, of the application without modification of the Worst Forms of Child Labour Convention, 1999 (No. 182).

Constitutional and other procedures

39. The Committee had been informed of the decisions taken since its last session by the Governing Body in cases where the Governing Body had recourse to the constitutional procedures in respect of complaints, representations and other procedures.

A. *Measures taken under article 33 of the ILO Constitution: The question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)*

40. The Committee notes the latest developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29).

41. In accordance with the resolution adopted by the International Labour Conference at its 88th Session, a special session of the Conference Committee on the

Application of Standards concerning the application by Myanmar of the Forced Labour Convention, 1930 (No. 29), took place in June 2001. The Committee concluded that there was still evidence of forced or compulsory labour being imposed on the citizens of Myanmar. The Committee noted that the Orders issued by the authorities were "a relevant, but insufficient basis for improving legislation, and that the conditions spelled out by the Committee of Experts should be applied in good faith, and further measures would be needed to ensure that this was in fact done". The Committee called upon the Government to give full cooperation to the High-Level Team which was to be sent to the country, and to ensure that those people who provided information to the team would enjoy full protection. It also requested the Government to provide a detailed report to the Committee of Experts at its next session.

42. Further, the Committee notes that the Office continued to extend cooperation to the Government of Myanmar in order to promote full implementation of the recommendations of the Commission of Inquiry.

43. Lastly, pursuant to the "Understanding on an ILO Objective Assessment" concluded on 19 May 2001 by representatives of the Director-General and representatives of the Government of Myanmar, the latter agreed to receive a High-Level Team. The Team carried out its mission from 17 September to 6 October 2001 in Myanmar and continued talks in Thailand from 7 to 12 October 2001.

44. The High-Level Team's terms of reference were to conduct an objective assessment of the practical implementation and actual impact of the framework of legislative, executive and administrative measures reported by the Government within the overall objective of the complete elimination of forced labour. The report of the team and the annexes to it were submitted to the Governing Body at its November 2001 session. The Committee notes that, after considering the abovementioned report, the Governing Body reached by consensus the following conclusions:[10]

> "...
>
> (1) The Governing Body notes with great interest the report of the High-Level Team and extends its gratitude to the Team and to its Chairperson, Sir Ninian Stephen, for having accepted this important and difficult task, as well as its congratulations on the quality of its work.
>
> (2) The Governing Body acknowledges that the Myanmar authorities have fulfilled their commitments under the Understanding of 19 May 2001, but intends to remain vigilant with regard to the parallel commitment made by these authorities to refrain from taking any action against persons or organizations who may have directly or indirectly contributed information to the Team.
>
> (3) It also recognizes the efforts made by the authorities to disseminate the Orders among the population, although it considers that these efforts should be strengthened and extended to include all the media and the use of the appropriate languages, in accordance with paragraph 42 of the report.
>
> (4) Profound concern has been expressed, however, regarding the very limited impact of this new legislation to date and, in particular, the persistent impunity with regard to criminal prosecution of persons who have committed violations, despite the provisions of this legislation.

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[10] GB.282/4/2.

(5) Consequently, urgent efforts should be undertaken by the Myanmar authorities to rectify this situation and provide more convincing evidence of their willingness to achieve this by the next session of the Governing Body.

(6) To this end, the Governing Body requests the Director-General to pursue the dialogue with the authorities in order to define the modalities and parameters of continued and effective ILO representation in Myanmar, which should be put in place as soon as possible.

(7) The Director-General should also continue to provide assistance to the authorities with a view to giving effect to the other concrete suggestions put forward in the report, including with regard to establishing a form of ombudsman.

(8) The Director-General is invited to report to the next session of the Governing Body. Depending on the progress or lack of progress achieved on the different points under consideration, including criminal proceedings concerning the allegations mentioned in paragraph 28 of the report if they are founded, it will be for the Governing Body to draw appropriate conclusions, both regarding action within its remit and that which it should refer to the Conference.

…"

45. While noting the conclusions of the Governing Body, the Committee also refers to its observation concerning the application by Myanmar of the Forced Labour Convention, 1930 (No. 29), in Part Two of this report.

B. Representations submitted under article 24 of the ILO Constitution

Representations declared receivable	Final report adopted by tripartite committee
■ Representation made by the Popular Labour Action Unity (UASP) and the Trade Union of Workers of Guatemala (UNSITRAGUA) alleging non-observance by **Guatemala** of the Tripartite Consultation (International Labour Standards) Convention, 1976 **(No. 144)**. **282nd Session of the Governing Body**	■ Representation made by the Single Confederation of Workers of Colombia (CUT) alleging non-observance by **Colombia** of the Indigenous and Tribal Peoples Convention, 1989 **(No. 169)**. **282nd Session of the Governing Body**
■ Representation made by Union Workers of the Autonomous University of Mexico (STUNAM) and the Independent Union of Workers of La Jornada (SITRAJOR) alleging non-observance by **Mexico** of the Indigenous and Tribal Peoples Convention, 1989 **(No. 169)**. **282nd Session of the Governing Body**	■ Representation made by the Central Unitary Workers' Union (CUT) and the Colombian Medical Trade Association (ASMEDAS) alleging non-observance by **Colombia** of the Indigenous and Tribal Peoples Convention, 1989 **(No. 169)**. **282nd Session of the Governing Body**

Representations declared receivable	Final report adopted by tripartite committee
■ Representation made under article 24 of the ILO Constitution by the Union of Academics of the National Institute of Anthropology and History (SAINAH) alleging non-observance by **Mexico** of the Indigenous and Tribal Peoples Convention, 1989 **(No. 169)**. **282nd Session of the Governing Body**	■ Representation made by the Greenlandic trade union, Sulinermik Inuussutissarsiuteqartut Kattuffiat (SIK) alleging non-observance by **Denmark** of the Indigenous and Tribal Peoples Convention, 1989 **(No. 169)**. **282nd Session of the Governing Body**
	■ Representation made by the Ecuadorian Confederation of Free Trade Union Organizations (CEOSL) alleging non-observance by **Ecuador** of the Indigenous and Tribal Peoples Convention, 1989 **(No. 169)**. **282nd Session of the Governing Body**
	■ Representation made by the National Confederation of Eritrean Workers (NCEW) alleging non-observance by **Ethiopia** of the Discrimination (Employment and Occupation) Convention, 1958 **(No. 111)**, and the Termination of Employment Convention, 1982 **(No. 158)**. **282nd Session.of the Governing Body** **Interim report of the 280th Session of the Governing Body.**
Representations withdrawn:	Representation made by the New Zealand Trade Union Federation alleging non-observance by **New Zealand** of the Forced Labour Convention, 1930 **(No. 29)**.

Representations declared non-receivable:

- Representation made by the National Copper Corporation of Chile (CODELCO), Chuquicamata Division, alleging non-observance by **Chile** of the Discrimination (Employment and Occupation) Convention, 1958 **(No. 111)**.
- Representation made under article 24 of the ILO Constitution by the Association of Human Resources Consultancies (ASECORH) alleging non-observance by **Ecuador** of the Discrimination (Employment and Occupation) Convention, 1958 **(No. 111)**.

282nd Session of the Governing Body

C. Special procedures concerning freedom of association

46. At each of its meetings over the last year (March, June and November 2001), the Committee on Freedom of Association had before it approximately 150 cases concerning around 60 countries from all parts of the world, for which it presented interim or final conclusions, or for which the examination was adjourned pending the arrival of information from governments (324th, 325th and 326th reports). A number of these cases had already been before the Committee on several occasions. Moreover, since the last meeting of the Committee of Experts, around 50 new cases have been submitted to the Committee on Freedom of Association. Missions concerning certain cases pending before the Committee on Freedom of Association visited **Guatemala**, **Ukraine** and the **Republic of Korea**.

47. The Committee on Freedom of Association drew the attention of the Committee of Experts to the legislative aspects of the following cases: Nos. 2090 (**Belarus**), 2053 (**Bosnia and Herzegovina**), 2083 (**Canada/New Brunswick**), 1951 (**Canada/Ontario**), 2078 (**Lithuania**), 1980 (**Luxembourg**), 2096 (**Pakistan**) 1878 and 2098 (**Peru**), 2091 (**Romania**), 2094 (**Slovakia**), 2038 (**Ukraine**), 2067 (**Venezuela**) and 1937 (**Zimbabwe**).

Collaboration with other international organizations and functions relating to other international instruments

A. Cooperation in the field of standards with the United Nations and the specialized agencies

48. In the context of the collaboration established with other international organizations on questions concerning the supervision of the application of universal instruments relating to subjects of common interest, copies of the reports received under article 22 of the Constitution were forwarded to the United Nations, specialized agencies, and intergovernmental organizations with which the ILO has entered into special arrangements for this purpose. Thus, copies of reports received on nine Conventions were forwarded for comment or information to various United Nations organizations or other bodies.[11] Further, representatives of these organizations were invited to attend the sittings of the Committee of Experts in which the Conventions in question were discussed.

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[11] Reports on the Indigenous and Tribal Populations Convention, 1957 (No. 107), and the Indigenous and Tribal Peoples Convention, 1989 (No. 169) sent to: the United Nations, the United Nations Food and Agriculture Organization (FAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Health Organization (WHO) with copies to the Inter-American Indian Institute of the Organization of American States and the United Nations Office of the High Commissioner for Human Rights; the Radiation Protection Convention, 1960 (No. 115): the International Atomic Energy Agency (IAEA); the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117): FAO, UNESCO and the United Nations with a copy to the United Nations Office of the High Commissioner for Human Rights; the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134), and the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147): the International Maritime Organization (IMO); the Human Resources Development Convention, 1975 (No. 142): UNESCO; the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143): the United Nations, UNESCO and WHO

B. United Nations treaties concerning human rights

49. The Office regularly sends written reports and submits oral information, in accordance with existing arrangements, to the various bodies responsible for supervising the application of United Nations Conventions that are relevant to the ILO's mandate. The reports and information submitted by the Office provide indications on the comments made by ILO supervisory bodies. The bodies concerned often take into account these indications by recommending that the States ratify relevant ILO Conventions, or that they avail themselves of the assistance of the Office. Since the Committee's last meeting, the Office has taken part in the bodies established to examine the application of the following instruments:

- the International Covenant on Economic, Social and Cultural Rights (two sessions);
- the International Covenant on Civil and Political Rights (two sessions);
- the International Convention on the Elimination of All Forms of Racial Discrimination (one session);
- the Convention on the Elimination of All Forms of Discrimination against Women (one session);
- the United Nations Convention on the Rights of the Child (three sessions).

50. Further, the Office was also represented at the 13th Meeting (June 2001) of the Chairpersons of United Nations Treaty Bodies, to discuss closer cooperation between these bodies and the ILO and, in particular, how the treaty bodies would make better use of the detailed information provided in the ILO reports. In addition, the Office was represented at the eighth Annual Meeting of Special Rapporteurs/Experts/ Representatives and Chairpersons of UN Working Groups, at which progress was achieved in ensuring that these UN mechanisms work in closer cooperation with the ILO.

C. European treaties

European Code of Social Security and its Protocol

51. In accordance with the supervisory procedure established under article 74(4) of the Code, and the arrangements made between the ILO and the Council of Europe, the Committee of Experts examined 16 reports on the application of the European Code of Social Security and, as appropriate, its Protocol. It noted that the States parties to the Code and the Protocol continue in large measure to apply them. At the sitting in which the Committee examined the reports on the European Code of Social Security and its Protocol, the Council of Europe was represented by Mr. Hallvard Gorseth. The

with a copy to the United Nations Office of the High Commissioner for Human Rights; the Nursing Personnel Convention, 1977 (No. 149): WHO.

conclusions of the Committee regarding these reports will be sent to the Council of Europe.

52. In addition, representatives of the ILO took part in the meeting of the Committee of Experts on Standard-Setting Instruments in the field of social security, held in Strasbourg (France) in September 2001, to examine the application of these instruments on the basis of the conclusions of this Committee. The Committee of Experts on Standard-Setting Instruments endorsed the conclusions of the Committee of Experts.

European Social Charter

53. In the context of its collaboration with the Council of Europe, representatives of the ILO participated in the course of 2001, in an advisory capacity, in accordance with article 26 of the European Social Charter, in sessions of the European Committee of Social Rights. Since the Committee's last meeting, **Lithuania**, **Republic of Moldova** and **Norway** have ratified the European Social Charter (Revised).

D. Matters relating to human rights

54. There have been a number of developments on human rights in the last year which have drawn increasing attention to matters relating to international labour standards. These events also reflect a growing conviction that sustainable economic development cannot take place without constant attention to the situation of workers, particularly in today's world marked by globalization.

55. The Committee recalls that the Governing Body decided, at its March-April 1995 session, to collect information on the ratification situation of the seven fundamental ILO Conventions (Conventions Nos. 29 and 105, 87 and 98, 100 and 111, and 138). Moreover, at its subsequent sessions, the reports collating the replies of member States to the Director-General's letter calling for their universal ratification will be examined. In the meantime, Convention No. 182 on the Worst Forms of Child Labour, adopted in 1999, was added to the list of the fundamental Conventions. The Governing Body has also examined reports on the Office's assistance to the member States for the ratification and application of these instruments. The campaign has been a great success, with more than 335 new ratifications or confirmations of ratifications, undertaken by 130 countries. To date, of the Organization's 175 member States, 65 countries have ratified the eight fundamental Conventions, 45 have ratified seven, and increasing numbers of States continue to deposit ratifications of these instruments. The Worst Forms of Child Labour Convention, 1999 (No. 182), has now passed 100 ratifications, attaining the fastest ratification rate of any ILO Convention in its history, while the Minimum Age Convention, 1973 (No. 138), also continues to be ratified at a rapid pace, raising its level of ratification to that of the other fundamental Conventions. The campaign continues, and detailed periodic reports are submitted to the Governing Body each year.

56. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance took place in Durban, South Africa, from 31 August to 7 September 2001, with the active participation of the ILO. The Declaration and Programme of Action adopted (though at the time of the Committee's session the final versions were not yet available) recognizes the ILO's work in the area of combating discrimination. The Conference focused on three of the ILO's main concerns: workplace discrimination, discrimination against migrant workers and discrimination against indigenous and tribal peoples. The ILO will be considering follow-up measures to the Conference.

57. The ILO also participated in the Special Session of the General Assembly on HIV/AIDS, which took place from 25 to 27 June 2001. The ILO submitted a draft code of practice on HIV/AIDS to this Special Session, and it also signed a Memorandum of Understanding to become a co-sponsor of the UNAIDS organization.

58. The ILO participates in the observance by the United Nations system of international years and decades whenever they are relevant to its work. Mention may be made of the Third Decade to Combat Racism and Racial Discrimination (1993-2003), the International Decade of the World's Indigenous People (1994-2004) and the United Nations Decade for Human Rights Education (1995-2004).

59. The Office continues to provide technical support to two Danish-funded projects to promote the rights of indigenous and tribal peoples within the framework of relevant ILO standards, in particular Convention No. 169, and is also pursuing a number of other activities in this regard. The Committee notes that the Office has recently established an internal task force to consider in a more integrated fashion the questions that arise on this subject.

60. Further, the Office took active part in the 57th (March-April 2001) session of the United Nations Commission on Human Rights, and the 53rd (August 2001) session of the United Nations Sub-Commission on the Promotion and Protection of Human Rights. It also participated in meetings of several of their subsidiary organs, in particular the Sub-Commission's Working Groups on Indigenous Populations and on Contemporary Forms of Slavery.

61. In the context of strengthening its technical advisory services on human rights, the Office has maintained collaboration with the United Nations through the Office of the High Commissioner for Human Rights. It has also, through its International Training Centre in Turin, taken part in UN workshops on international human rights instruments reporting.

Questions concerning the application of Conventions

62. At its present session, the Committee examined the questions covered below. The Committee also considered the issues of home work, sexual harassment and the informal sector, which it intends to examine in greater depth at its next session.

Application of the Employment Policy Convention, 1964 (No. 122)

63. In examining the application of the Employment Policy Convention, 1964 (No. 122), this year, the Committee notes the continuing trend of moving from passive to active labour market policies. Active measures, such as training, apprenticeships and placement services are being allocated a larger share of the total budget for addressing unemployment and employment promotion. Governments explain that this is due to the generally positive results achieved from the move to more active policies. Some member States, such as **Belgium**, also credit the increasing demand from jobseekers for measures designed to help them obtain lasting employment. Governments are increasingly realizing that merely placing stricter conditions on the receipt of unemployment benefit is not sufficient in itself in moving the unemployed into employment. They also need to provide quality services that bring about positive results for participants.

64. This realization is most striking in the area of placement services. In their reports a large number of governments identified improvement of public placement services (PES) as a top priority. Reasons stated range from the need to reduce frictional unemployment to the need to take more proactive measures to prevent people falling into long-term unemployment. Numerous governments are reorganizing the PES to improve its effectiveness. Some are also stressing the importance of tailoring services to the needs of the individual. For many jobseekers access to placement services remains a problem which governments are working to overcome, as reported for example by **Brazil**, the **Republic of Korea** and the **Philippines**. Governments are supporting development of non-governmental placement services and are looking for ways to monitor them and improve their cooperation with the PES. In this regard, the Committee draws attention to the provisions of the Private Employment Agencies Convention, 1997 (No. 181), and Recommendation (No. 188), which stress the importance of cooperation between the PES and private agencies to ensure more accurate information on labour market trends and highlight important issues involved in monitoring private agencies such as who should pay for certain services and the need to protect the privacy of registered jobseekers.

65. Numerous government reports, including those of **Australia**, **Israel**, **Papua New Guinea** and **Ukraine**, also stated the importance of providing high-quality placement services to employers to encourage them to register vacancies. The Committee welcomes these developments and encourages all member States to make quality placement services for both jobseekers and employers a cornerstone of their employment promotion policy.

66. Further to previous comments, the Committee notes the continuing trend in emphasizing the importance of education and training to help workers obtain the skills demanded in the labour market; see, for example, the comment on the application of Convention No. 122 by the **Islamic Republic of Iran**. The Committee continues to encourage innovation in provision of vocational training, particularly in expanding access and linking training more closely to employment promotion. It recalls that all Members were invited to consider the ratification of the Human Resources Development Convention, 1975 (No. 142). It also recalls that at its 91st Session (June 2003), the Conference will discuss the adoption of a new Recommendation on formulating and implementing human resources development polices, integrated with other economic and social policies, particularly employment policies; and the General Survey this Committee will carry out in 2003 will examine links between Conventions Nos. 122 and 142.

67. Numerous government reports contained interesting discussions on the need to reconsider notions of working time, as a potential means of promoting employment and also as an important aspect of decent work. Many measures adopted to reduce working time are motivated by the growing realization that there are many potential contributors to a productive economy, such as older workers and people with family responsibilities, who are not able to participate in the labour market because of a prevailing generally rigid approach to working time in their country. Governments are experimenting with various ways of reducing working time (see, for example, the comments on **Belgium**, **Denmark**, **France**, **Japan**, the **Republic of Korea** and the **Netherlands**). The Committee encourages member States that are considering adjustments to working time as a means of promoting employment to include in their reports information on the impact of this measure on employment creation.

68. Countries with ageing populations and increasing dependency ratios have reported that they are examining ways to promote employment of older workers. There is a growing realization that older workers have a great deal to contribute, and that they are more adaptable and willing to learn, and less costly to employ than often thought. The measures taken include extending the retirement age (**Japan** and the **Republic of Korea**), promoting employment of older workers in the framework of a comprehensive approach including additional concentration by the placement services on older jobseekers and research on issues of discrimination against older workers (**Finland**).

69. Of course, governments are paying considerable attention to other categories of workers, such as youth and women. Many government reports discussed at length programmes targeted at promoting employment of people with disabilities, although few had significant positive results to report. In a general observation last year for the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), the Committee noted with interest various intergovernmental regional efforts to share information and resources for promoting employment for jobseekers with disabilities. It again encourages cooperative efforts to help this category of particularly challenged jobseekers, and draws attention in this respect to the Global Applied Disability Research and Information Network on Employment and Training (GLADNET), which collaborates with the Office and provides research from a range of countries and a learning forum for policy-makers and researchers. The Committee also welcomes the ILO code of practice on managing disability in the workplace, adopted by a tripartite committee of experts in October 2001.

70. Some governments mentioned in their reports efforts to promote employment of groups that generally are either overlooked or marginalized, including homeless people (**Japan** and the **United Kingdom**), immigrants (**Japan** and **Norway**) and indigenous peoples (**Australia**).

71. In all developing countries in which the Convention applies, in particular in Africa and Latin America, the informal sector represents an important part of the economy. Workers in the informal economy are among the most vulnerable and worst protected groups. The informal economy also has a high concentration of child labourers and women workers in low-productivity jobs with difficult working conditions. The Committee appreciates the fact that several governments' reports include information on the informal sector and programmes undertaken, often with assistance from the ILO, to promote productive employment and to integrate informal economy workers in the more modern sectors of the economy. In this respect, the Committee again notes that almost all governments mentioned in their reports the very important role of micro, small and medium-sized enterprises in creating jobs, as well as the contribution of self-employment to employment promotion (see, for example, **Barbados**, **Costa Rica**, and **Uruguay**). This is particularly true of rural areas and local economies that have historically depended on one industry. The Committee again welcomes these efforts and encourages all member States, in line with the Job Creation in Small and Medium-Sized

Enterprises Recommendation, 1998 (No. 189), to examine ways in which they can provide further support to smaller scale producers as a means of promoting employment.

72. Further to previous comments, the Committee notes that numerous member States which have ratified the Convention have become eligible for debt relief under the programme for Highly Indebted Poor Countries (HIPC) sponsored by the World Bank and the International Monetary Fund, including **El Salvador**, **Guinea**, **Honduras**, **Madagascar**, **Mauritania**, **Nicaragua** and **Uganda**. The Committee notes that the majority of the countries that have been granted financial debt relief have explicitly cited employment promotion as a top priority in their Poverty Reduction Strategy Papers. The Committee trusts that the government concerned will give priority in its plans and programmes to the objectives of full employment and the promotion of decent work will constitute a key element of their strategy to tackle poverty.

73. The Committee welcomes the increased emphasis numerous governments are placing on consulting with workers and employers concerning employment promotion (e.g. **Brazil**, **Hungary**, **Mozambique** and the **Netherlands**). It continues to encourage all member States that have ratified the Convention to consult with the social partners and other affected groups at all stages, from development of policies to implementation and review of specific programmes.

74. Lastly, the Committee once again welcomes the cooperation between the Standards department and the Employment and Training Department in examining government's reports, and for information on the technical cooperation carried out by the Office in this regard.

Technical assistance in the field of standards

A. Direct contacts

75. Direct contacts missions were carried out during the past year to **Cameroon** and **Guatemala**.

B. Promotional activities

76. Since the last meeting of the Committee of Experts, several regional and subregional seminars and symposia on international labour standards and freedom of association have been held:

- subregional or national tripartite seminars on the implementation of Conventions Nos. 87 and 98 for export processing zones (EPZs) (**Sri Lanka**, January 2001, **Dominican Republic**, July 2001, **India**, October 2001);
- a national tripartite seminar on fundamental ILO standards (**Islamic Republic of Iran**, April 2001);
- an international labour standards seminar (**Uruguay**, May 2001);
- a subregional sensitization seminar on Conventions Nos. 87 and 98 (**Uganda**, May 2001);
- an East African subregional seminar on international labour standards for labour court judges (**Uganda**, May 2001);

- a national seminar for the promotion of the application of international labour standards (**Jordan**, May 2001); and
- a seminar on freedom of association in the dock sector, of countries of the Southern Cone of Latin America (**Brazil**, September 2001).

77. The International Labour Standards Department organizes an annual training course for government officials responsible for reporting on international labour standards. This training is held at the Turin Centre and in Geneva during the two weeks immediately preceding the June Conference. Many of the fellows stay on to participate in the work of the Conference Committee. This year the course was attended by 26 participants from 25 countries. Further, it is worth mentioning the recent training activities of the Turin Centre such as: a course for international lawyers and legal educators on international labour standards; a course on international labour standards, productivity improvement and enterprise development; a course on international labour standards and globalization; and one on the rights of women workers. The Turin Centre, in collaboration with the Freedom of Association Branch of the International Labour Standards Department, also launched a project to provide training in standards and procedures concerning freedom of association.

78. Other activities for the promotion of standards (participation in various meetings, the provision of technical advisory services, technical assistance, etc.) took place in the following countries: **Angola, Argentina, Austria, Bahrain, Belarus, Belgium, Brazil, Bulgaria, China, Democratic Republic of the Congo, Costa Rica, Cuba, Dominican Republic, France, Hungary, Islamic Republic of Iran, Israel, Japan, Jordan, Kazakhstan, Republic of Korea, Lebanon, Madagascar, Malaysia, Mauritius, Mexico, Republic of Moldova, Norway, Philippines, Poland, Russian Federation, South Africa, Switzerland, Syrian Arab Republic, Thailand, Ukraine, United Kingdom, United States, Uruguay**.

79. The promotion of standards is also realized through the ILO legal information system and in particular through ILOLEX (a database of international labour standards), and NATLEX (a database of national legislation regarding labour, social security and related human rights).

80. This year, the ILOLEX web site was redesigned to provide easier access to users. Furthermore, Arabic, Chinese and Russian versions of many Conventions and Recommendations are now available in the database. With regard to NATLEX, approximately 2,000 abstracts of national legislative texts on labour, social security and human rights matters from around 180 countries were introduced into the database during the course of last year. In addition, a number of full texts of laws were added, most notably on child labour. ILOLEX and NATLEX are available on the ILO web site [12] and on CD-ROM. They respond to a monthly average of 100,000 outside requests for information. The Department also launched a pilot version of the International Labour Standards Electronic Library (ILSE) CD-ROM, which provides a browse version of ILO standards, General Surveys, the *Handbook of procedures relating to international labour Conventions and Recommendations*, and other reference documents.

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[12] www.ilo.org.

C. *Multidisciplinary advisory teams*

81. The Committee notes that specialists in international labour standards are serving in the multidisciplinary advisory teams located in the following cities: Addis Ababa, Beirut, Harare, Lima, Manila, Moscow, New Delhi, Port-of-Spain, San José, Santiago (Chile) and Yaoundé. The Bangkok multidisciplinary team will again have such a specialist as from the beginning of next year, and specialists should shortly be appointed to the teams in Cairo and Dakar.

82. The Committee wishes to place particular emphasis on the essential role that international labour standards specialists play in the supervision of obligations deriving from Conventions and Recommendations as well as in the promotion of these standards. They contribute to increasing the number of reports in respect of ratified Conventions, and to providing member States assistance in preparing their requisite reports, and to ensuring that member States take appropriate action on Conventions and Recommendations communicated to them, particularly as regards the submission of instruments to the competent authorities. They also allow the supervisory bodies' comments to be followed up in an appropriate way. At the same time, the specialists carry out a whole range of activities to promote the ratification of international labour Conventions, and the application of international labour standards in general. For example, they organize seminars, workshops and training to raise awareness about international labour standards and in particular to acquaint national officials with the procedures for their supervision. They also assist governments in drafting domestic legislation so as to ensure that it is consistent with international labour standards.

83. The Committee also notes that the International Labour Standards Department has assisted by supplying the necessary technical back-up to the standards specialists in particular by facilitating missions to headquarters for consultations and enabling headquarters officials to undertake missions.

III. Respect for obligations

Reports on ratified Conventions
(articles 22 and 35 of the Constitution)

A. *Supply of reports*

84. The Committee's principal task consists of the examination of the reports supplied by governments on Conventions which have been ratified by member States or which have been declared applicable to non-metropolitan territories.

85. In accordance with the decision to modify the regular supervisory procedures, adopted by the Governing Body at its 258th Session (November 1993), reports were requested this year from all ratifying states on 30 Conventions.[13] These reports cover the period ending 1 September 2001. Furthermore, detailed reports were also requested from certain governments on other Conventions, in accordance with the criteria approved by the Governing Body concerning the obligation to send reports more frequently.[14] The procedures which are followed and established practice with regard to the obligations relating to international labour standards are found in the *Handbook of procedures relating to international labour Conventions and Recommendations*.

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[13] Conventions Nos. 10, 13, 16, 19, 20, 32, 33, 53, 60, 62, 69, 73, 74, 81, 98, 102, 105, 111, 113, 118, 123, 125, 128, 134, 139, 144, 145, 152, 157, 182.

Reports requested and received

86. A total of 2,313 reports were requested from governments on the application of Conventions ratified by member States (article 22 of the Constitution). At the end of the present session of the Committee, 1,512 of these reports had been received by the Office. This figure corresponds to 65.37 per cent of the reports requested, compared with 71 per cent last year.

87. The Committee regrets that, as indicated in paragraphs 90 and 96 below, a number of the reports received are incomplete and do not allow it to make relevant comments. In addition, 390 reports were requested on Conventions declared applicable with or without modifications to non-metropolitan territories (article 35 of the Constitution). Of these, 237 reports, or 60.77 per cent, had been received by the end of the Committee's session, in comparison with 63 per cent last year.

88. Appendix I of the report lists the reports received and not received, classified by country/territory and by Convention. Appendix II shows, for each year in which the Conference has met since 1932, the number and percentage of reports received by the prescribed date, by the date of the meeting of the Committee, and by the date of the session of the International Labour Conference.

89. In some cases reports are not accompanied by copies of the relevant legislation, statistical data or other documentation necessary for their full examination. In cases where this material was not otherwise available, the Office, as requested by the Committee, wrote to the governments concerned asking them to supply the necessary texts to enable the Committee to fulfil its task.

Compliance with reporting obligations

90. Most of the governments from which reports were due on the application of ratified Conventions have supplied most or all the reports requested (see Appendix I). However, no reports due have been received for the past two or more years from the following 13 countries: **Afghanistan, Armenia, Bosnia and Herzegovina, Denmark** (Faeroe Islands), **Equatorial Guinea, Kyrgyzstan, Sao Tome and Principe, Sierra Leone, Solomon Islands, United Republic of Tanzania (Zanzibar), The former Yugoslav Republic of Macedonia, Turkmenistan, Uzbekistan.** In addition, all or the majority of the reports due this year have not been received from the following 32 countries: **Algeria, Antigua and Barbuda, Barbados, Belize, Bolivia, Cambodia, Comoros, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Ethiopia, Fiji, France** (New Caledonia), **Grenada, Guinea, Haiti, Iraq, Kazakhstan, Liberia, Mongolia, Netherlands** (Aruba), **Nigeria, Paraguay, Saint Vincent and the Grenadines, Slovakia, Slovenia, Swaziland, Tajikistan, United Republic of**

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[14] GB.258/LILS/6/1 (Nov. 1993), para. 12(c).

Tanzania, United Republic of Tanzania (Tanganyika), Uganda, United Kingdom (Anguilla, Jersey).

91. The Committee urges the governments of these countries to make every effort to supply the reports requested on ratified Conventions. The Committee is aware that where no reports have been sent for some time, it is likely that administrative or other problems are preventing the government concerned from fulfilling its obligations under the ILO Constitution, and it may be that in cases of this kind, assistance from the Office, in particular through the specialists on international labour standards of the multidisciplinary advisory teams, could enable the government to overcome its difficulties.

Late reports

92. The Committee is increasingly concerned about the number of reports being received after the prescribed time period, especially given the large number of reports received this year. The reports due on ratified Conventions were to be sent to the Office between 1 June and 1 September 2001. Due consideration is given, when fixing this date, particularly to the time required to translate the reports, where necessary, to conduct research into legislation and other necessary documents, and to examine reports and legislation.

93. The supervisory procedure can function correctly only if reports are communicated in due time. This is particularly true in the case of first reports or reports on Conventions where there are serious or continuing discrepancies, which the Committee has to examine in greater depth.

94. The Committee observes that the great majority of reports are received between the time limit fixed and the date on which the Committee meets: by 1 September 2001, the proportion of reports received was only 26 per cent. This percentage is lower than for its previous session (29 per cent) and the Committee is concerned over this fact, since it notes that it is often first reports and those relating to Conventions on which the Committee has made comments that are received the latest. In these circumstances, the Committee has been bound in recent years to postpone to its following session the examination of an increasing number of reports, since they could not be examined with the necessary care owing to lack of time. It has thus had to examine a number of reports at its present session which had previously been deferred.

95. The Committee wishes to draw attention to the importance of the governments transmitting reports within the prescribed time limits. The majority of reports received from governments continued this time to arrive in the last three months before the Committee's meeting or even during it. This obviously places a great strain on the supervisory process and effectively makes it impossible for some cases to be dealt with adequately or at all. These problems will continue to increase with the success of the ratification campaign on fundamental Conventions and an increase in the number of ratifications of other Conventions.

96. Furthermore, the Committee notes that a number of countries sent some or all of the reports due on ratified Conventions during the period between the end of the Committee's December 2000 session, and the beginning of the June 2001 session of the

International Labour Conference, or even during the Conference.[15] The Committee emphasizes that this practice disturbs the regular operation of the supervisory system and makes it more burdensome. It wished to provide the following list of those countries which followed this practice in 2000-01, as requested by the Conference Committee on the Application of Standards: **Angola** (Conventions Nos. 6, 106), **Argentina** (Conventions Nos. 71, 88), **Barbados** (Convention No. 29), **Botswana** (Conventions Nos. 14, 29, 87, 95, 98, 100, 105, 111, 138, 144, 151, 173, 176), **Burundi** (Convention No. 94), **Cameroon** (Conventions Nos. 29, 81, 87, 100, 158), **Cape Verde** (Conventions Nos. 100, 111), **Central African Republic** (Conventions Nos. 6, 11, 14, 17, 18, 19, 41, 52, 62, 81, 87, 95, 98, 101, 105, 111, 118), **Chile** (Conventions Nos. 29, 122, 127), **Congo** (Conventions Nos. 6, 14, 29, 87, 95), **Costa Rica** (Convention No. 114), **Côte d'Ivoire** (Convention No. 29), **Cyprus** (Convention No. 122), **Czech Republic** (Conventions Nos. 14, 29, 87, 89, 90, 100, 108, 115, 122, 124, 130, 132, 140, 148, 161), **Democratic Republic of the Congo** (Conventions Nos. 11, 12, 14, 19, 26, 27, 29, 62, 81, 84, 88), **Denmark** (Conventions Nos. 29, 94, 148), **France** (Conventions Nos. 29, 137), **Gabon** (Conventions Nos. 6, 29, 41, 52, 81, 87, 98, 100, 124, 135, 154, 158), **Georgia** (Conventions Nos. 29, 100, 105, 111, 117, 122, 142), **Ghana** (Conventions Nos. 111, 115, 149, 151), **Greece** (Convention No. 115), **Hungary** (Conventions Nos. 24, 122), **India** (Conventions Nos. 22, 29), **Islamic Republic of Iran** (Conventions Nos. 14, 29, 106), **Jamaica** (Conventions Nos. 29, 87, 98), **Lesotho** (Convention No. 100), **Libyan Arab Jamahiriya** (Convention No. 89), **Malaysia**: **Sabah** (Convention No. 16), **Malaysia: Sarawak** (Convention No. 16), **Mali** (Convention No. 81), **Mauritania** (Conventions Nos. 3, 14, 33, 81, 87, 91, 94, 102, 112, 114, 118, 122), **Republic of Moldova** (Convention No. 95), **Netherlands**: Netherlands Antilles (Conventions Nos. 14, 22, 23, 25, 29, 87, 90, 94, 95, 101, 106, 122), **Niger** (Conventions Nos. 14, 95), **Paraguay** (Convention No. 169), **Peru** (Convention No. 102), **Slovakia** (Conventions Nos. 52, 95, 98, 155), **Slovenia** (Conventions Nos. 97, 143), **Swaziland** (Convention No. 111), **United Republic of Tanzania** (Conventions Nos. 105, 138, 148, 154), **United Arab Emirates** (Convention No. 138), **United Kingdom**: Anguilla (Convention No. 87), Bermuda (Conventions Nos. 22, 23, 82, 87, 94, 115), Falkland Islands (Malvinas) (Conventions Nos. 14, 22, 23, 29, 87), Gibraltar (Conventions Nos. 22, 23, 87, 100), Guernsey (Conventions Nos. 22, 24, 25, 29, 56, 87, 97, 114, 115, 122), Isle of Man (Conventions Nos. 22, 23, 24, 25, 29, 56, 87, 97, 101, 122, 133), Montserrat (Convention No. 29), St. Helena (Conventions Nos. 14, 29, 87).

Supply of first reports

97. A total of 115 of the 198 first reports due on the application of ratified Conventions were received by the time that the Committee's session ended, compared to last year when 88 out of the 155 first reports had been received. However, a number of countries have failed to supply first reports, some of which are more than a year overdue. Thus, certain first reports on ratified Conventions have not been received from the following 12 States: since 1992 – **Liberia** (Convention No. 133); since 1995 – **Armenia**

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[15] For the reports received and not received by the end of the Conference, see Report of the Committee on the Application of Standards, Part Two, IC and IIB (*Provisional Record* No. 19, 89th Session, ILC, 2001).

(Convention No. 111), **Kyrgyzstan** (Convention No. 133); since 1996 – **Armenia** (Conventions Nos. 100, 122, 135, 151), **Grenada** (Convention No. 100), **Uzbekistan** (Conventions Nos. 47, 52, 103, 122); since 1998 – **Armenia** (Convention No. 174), **Equatorial Guinea** (Conventions Nos. 68, 92), **Mongolia** (Convention No. 135), **Uzbekistan** (Conventions Nos. 29, 100); since 1999 – **Turkmenistan** (Conventions Nos. 29, 87, 98, 100, 105, 111), **Uzbekistan** (Conventions Nos. 98, 105, 111, 135, 154); and since 2000 – **Belize** (Convention No. 14), **Chad** (Convention No. 151), **Fiji** (Conventions Nos. 144, 169), **Ireland** (Convention No. 172), **Mongolia** (Conventions Nos. 144, 155, 159).

98. First reports have particular importance since it is the basis on which the Committee makes its initial assessment of the observance of ratified Conventions. The Committee therefore requests the governments concerned to make a special effort to supply these reports. This is of particular importance in view of the Governing Body's decision at its 282nd Session to remove the automatic obligation to submit a second detailed report two years after the first report.

Replies to the comments of the supervisory bodies

99. Governments are requested to reply in their reports to the observations and direct requests of the Committee, and the majority of governments have provided the replies requested. In accordance with the established practice, the International Labour Office wrote to all the governments who failed to provide such replies, requesting them to supply the necessary information. Of the 47 governments to which such letters were sent, only 15 have provided the information requested.

100. The Committee notes that there are still many cases of failure to reply to its comments; either:

(a) out of all the reports requested from governments, no reply has been received; or

(b) the reports received contained no reply to most of the Committee's comments (observations and/or direct requests) and/or did not reply to the letters sent by the Office.

101. In all there were 437 cases of no response (concerning 45 countries).[16] There were 389 such cases (concerning 42 countries) last year. It is bound to repeat the observations or direct requests already made on the Conventions in question.

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[16] **Afghanistan** (Conventions Nos. 13, 95, 100, 105, 111, 137, 139, 140, 141, 142); **Algeria** (Conventions Nos. 24, 62, 78, 87, 94, 97, 105, 111, 127, 138); **Antigua and Barbuda** (Conventions Nos. 29, 81, 111, 138); **Bahamas** (Conventions Nos. 81, 105); **Barbados** (Conventions Nos. 102, 105, 108, 118, 128); **Belize** (Conventions Nos. 22, 29, 81, 87, 88, 95, 98, 105, 115); **Bolivia** (Conventions Nos. 20, 81, 95, 98, 102, 105, 111, 117, 121, 122, 123, 124, 128, 130, 131, 136, 160); **Bosnia and Herzegovina** (Conventions Nos. 81, 87, 111, 122, 158); **Costa Rica** (Conventions Nos. 81, 94, 95, 102); **Côte d'Ivoire** (Conventions Nos. 13, 33, 52, 81, 95, 98, 111, 129, 133, 144); **Democratic Republic of the Congo** (Conventions Nos. 94, 95, 98, 100, 102, 117, 118, 119, 121, 150, 158); **Denmark** (Conventions Nos. 98, 102, 111, 139, 169); **Denmark:** Faeroe Islands (Conventions Nos. 9, 16, 92); **Dominica** (Conventions Nos. 100, 111, 138); **Equatorial Guinea** (Conventions Nos. 1, 30, 138); **Ethiopia** (Conventions Nos. 87, 98); **Fiji** (Conventions Nos. 8, 29, 98, 105); **France:** French Guiana (Conventions Nos. 115, 142, 145, 149), Guadeloupe (Conventions Nos. 10, 115, 145), New Caledonia (Conventions Nos. 10, 33,

102. The failure of the governments concerned to fulfil their obligations considerably hinders the work of the Committee of Experts and that of the Conference Committee, and the Committee of Experts cannot overemphasize the importance of ensuring the dispatch of the reports and replies to its comments on time.

B. Examination of reports

103. In examining the reports received on ratified Conventions and Conventions declared applicable to non-metropolitan territories, in accordance with its practice the Committee assigned, to each of its members the initial responsibility for a group of Conventions. Reports received early enough are sent to the members concerned in advance of the Committee's session. The members submit their preliminary conclusions on the instruments for which they are responsible to all their colleagues for their examination. These conclusions are then presented to the Committee in plenary sitting by their respective authors for discussion and approval. Decisions on comments are adopted by consensus.

Observations and direct requests

104. In many cases, the Committee has found that no comment is called for regarding the way in which a ratified Convention has been implemented. In other cases, however, the Committee has found it necessary to draw the attention of the governments concerned to the need to take further action to give effect to certain provisions of Conventions or to supply additional information on given points. As in previous years, its comments have been drawn up in the form either of "observations" which are

127, 144), Réunion (Conventions Nos. 115, 129, 145, 149); **Gabon** (Conventions Nos. 29, 81, 87, 95, 98, 100, 105, 111, 144, 154, 158); **Grenada** (Conventions Nos. 10, 26, 81, 97, 99, 105, 144); **Guatemala** (Conventions Nos. 13, 29, 81, 94, 98, 105, 129, 138); **Guinea** (Conventions Nos. 10, 16, 33, 62, 81, 94, 95, 98, 105, 111, 113, 118, 121, 139, 140, 149, 152); **Haiti** (Conventions Nos. 14, 24, 25, 29, 81, 87, 98, 106, 111); **Iraq** (Conventions Nos. 13, 98, 105, 111, 118, 139, 144, 152); **Kyrgyzstan** (Conventions Nos. 14, 23, 29, 52, 77, 78, 79, 87, 95, 98, 100, 108, 122, 124, 147, 148, 149, 159, 160); **Lao People's Democratic Republic** (Conventions Nos. 13, 29); **Liberia** (Conventions Nos. 22, 29, 53, 55, 87, 98, 105, 111, 113, 114, 133, 147); **Mongolia** (Conventions Nos. 87, 100, 103, 111, 122, 123); **Myanmar** (Conventions Nos. 17, 22, 52, 87); **Nepal** (Conventions Nos. 98, 111); **Netherlands:** Aruba (Conventions Nos. 14, 25, 29, 87, 94, 95, 101, 105, 121, 122, 131, 135, 137, 138, 140, 142, 144, 145, 146, 147); **Nigeria** (Conventions Nos. 19, 26, 29, 81, 87, 88, 95, 97, 98, 100, 105, 123, 133, 134, 144); **Paraguay** (Conventions Nos. 60, 81, 87, 98, 111, 123); **Saint Vincent and the Grenadines** (Conventions Nos. 5, 7, 10, 11, 16, 81, 98); **Sao Tome and Principe** (Conventions Nos. 17, 18, 19, 81, 87, 88, 98, 100, 111, 144, 159); **Sierra Leone** (Conventions Nos. 8, 17, 26, 29, 59, 88, 95, 98, 99, 100, 101, 105, 111, 119, 125, 126, 144); **Slovakia** (Conventions Nos. 19, 90, 102, 111, 115, 122, 123, 128, 130, 142, 144, 148, 159); **Slovenia** (Conventions Nos. 13, 16, 19, 53, 69, 73, 74, 98, 102, 111, 113, 139); **Solomon Islands** (Conventions Nos. 8, 14, 16, 29, 81, 95); **Swaziland** (Conventions Nos. 11, 19, 29, 81, 96, 123); **Tajikistan** (Conventions Nos. 23, 29, 52, 73, 77, 78, 87, 98, 100, 111, 115, 122, 124, 138, 160); **United Republic of Tanzania** (Conventions Nos. 17, 63, 94, 95, 137, 140, 144, 149); **The former Yugoslav Republic of Macedonia** (Convention No. 87); **Tunisia** (Conventions Nos. 19, 81, 111, 118, 127); **Uganda** (Conventions Nos. 17, 81, 94, 98, 105, 123, 143, 154, 158, 162); **United Kingdom:** Anguilla (Conventions Nos. 22, 23, 94, 140), Jersey (Conventions Nos. 10, 22, 81, 115, 140).

reproduced in the report of the Committee, or "direct requests", which are not published in the report, but are communicated directly to the governments concerned.[17]

105. As in the past, the Committee has indicated by footnotes the cases in which, because of the nature of the problems met in the application of the Conventions concerned, it has seemed appropriate to ask the government to supply a detailed report earlier than would otherwise have been the case. Under the present reporting cycle,[18] which applies to most Conventions, such early reports have been requested after an interval of either one or two years, according to circumstances. In some instances, the Committee has also requested the government to supply full particulars to the Conference at its next session in June 2002.

106. The observations of the Committee appear in Part Two (sections I and II) of this report, together with a list under each Convention of any direct requests. An index of all observations and direct requests, classified by country, is provided in Annex VII.

Practical application

107. As in previous years, the Committee has been concerned with assessing, on the basis of the information available, the extent to which ratified Conventions and the national legislation giving effect to them are applied in practice. A number of questions designed to elicit information on this point are included in the report forms approved by the Governing Body for the Conventions, and the replies of governments to these questions constitute an appreciable, though uneven, source of information on practical application available to the Committee.

108. To ensure that such information appears more systematically in the governments' reports, the Committee has asked the International Labour Office to solicit such information in a letter of reminder sent each time the reports received do not contain the information in question. The Committee hopes that, together with the more targeted technical assistance provided by the multidisciplinary advisory teams, this measure will be effective in increasing the number of reports containing such data. As a result, a more accurate assessment of the conditions of application of ratified Conventions in these countries will be possible. The Committee also has decided to discontinue addressing general direct requests to certain countries which have not replied to the questions on practical application which appear in the report forms.

109. The Committee has also taken into account other authoritative sources of information. These consist, in particular, of reports of the Committee on Freedom of Association, reports from other international or regional organizations, the annual reports of labour inspection services, statistical yearbooks published in the States or by the ILO, observations of employers' or workers' organizations, reports on direct contacts and reports on technical cooperation projects.

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[17] ILO: *Handbook of procedures relating to international labour Conventions and Recommendations*, Geneva, Rev.2/1998, para. 54(k). These comments do appear in the CD-ROM version of the ILOLEX database.

[18] After the first report, subsequent reports are requested every two years for the priority Conventions and every five years for other Conventions, divided into five equal groups (GB.258/6/19).

110. The Committee also notes with interest the judicial and administrative decisions on questions of principle relating to the application of ratified Conventions to which certain countries have referred in their reports. It noted that 46 reports contain information of this kind and thereby shed additional light on the problems raised in these cases by the practical application of the Conventions in question.

Cases of progress

111. In accordance with its usual practice, the Committee has drawn up a list of the cases in which it has been able to **express its satisfaction** at the adoption of necessary changes in a country's law or practice following comments by the Committee on the degree of conformity between national law or practice and the provisions of a ratified Convention. Details concerning the cases in question are to be found in Part II of this report and cover 36 instances in which measures of this kind have been taken in 23 countries. The full list is as follows:

List of the cases in which the Committee has been able to **express its satisfaction** at certain measures taken by the governments of the following countries:

State	*Conventions Nos.*	*State*	*Conventions Nos.*
Argentina	87, 98	**Italy**	127
Chile	87, 98	**Malta**	77
Colombia	81	**Mauritius**	175
Croatia	102	**Moldova, Republic of**	87, 98, 135, 154
Denmark	29, 115	**Morocco**	98
Egypt	73	**Portugal**	77, 171
Estonia	98	**Saint Lucia**	87
Germany	115	**Slovakia**	87
Guatemala	87, 98	**Sri Lanka**	98, 115
Indonesia	98	**Syrian Arab Republic**	11, 87, 96, 98
Iran, Islamic Republic of	106	**Tunisia**	124
Non-metropolitan territories			
France: **French Guiana**	81	**France:** **French Polynesia**	81

112. Thus, the total number of cases in which the Committee has been led to **express its satisfaction** with the progress achieved following its comments has risen to 2,312 since the Committee began listing them in its reports in 1964.

113. In addition, there have been 138 cases in which the Committee has been able to note with interest various measures that have been taken following its comments with a view to ensuring a fuller application of ratified Conventions. Details concerning the cases in question are to be found in Part II of this report and in the requests addressed directly to governments concerned and cover 139 instances in which measures of this kind have been taken concerning 80 countries. The full list is as follows:

List of the cases in which the Committee has been able to **note with interest** various measures taken by the governments of the following countries:

State	*Conventions Nos.*	*State*	*Conventions Nos.*
Albania	87	**France**	22, 29, 81, 139
Algeria	81, 95	**Germany**	22, 29
Australia	29, 98, 100, 122	**Ghana**	74, 103
Bangladesh	98, 107	**Greece**	81, 100, 134
Barbados	81	**Honduras**	81
Belarus	98, 100	**Hungary**	100, 127
Benin	97, 105	**Indonesia**	87, 100
Botswana	100	**Iran, Islamic Rep. of**	19
Brazil	100, 111	**Ireland**	81, 100
Bulgaria	62	**Israel**	98
Burkina Faso	81, 100	**Italy**	81, 97, 134
Cameroon	81, 87	**Jamaica**	8
Canada	100, 105	**Japan**	122, 156
Cape Verde	81	**Kenya**	149
Chile	162	**Korea, Rep. of**	122
Colombia	129	**Kuwait**	87
Costa Rica	81, 111	**Latvia**	13
Croatia	73, 100	**Lebanon**	98
Cyprus	97, 152, 155	**Luxembourg**	69, 73
Czech Republic	11, 100	**Madagascar**	98
Denmark	81	**Malawi**	87, 97, 100
Djibouti	100, 106	**Mauritania**	122
Dominican Republic	81, 106, 111	**Mexico**	111
Ecuador	81	**Moldova, Rep. of**	87
El Salvador	81, 111	**New Zealand**	81, 100, 134
Finland	16	**Nigeria**	97

State	*Conventions Nos.*	*State*	*Conventions Nos.*
Pakistan	81, 87	**Swaziland**	87
Peru	111, 152	**Sweden**	97
Philippines	87	**Switzerland**	81, 100
Poland	95	**Syrian Arab Republic**	115
Portugal	81, 100, 129, 149	**Tanzania, United Rep. of**	154
Russian Federation	108, 156	**Trinidad and Tobago**	111
Rwanda	11, 87	**Uganda**	122
Saint Lucia	97	**Ukraine**	29
Saudi Arabia	106	**United Kingdom**	81, 100, 105, 115
Slovenia	29, 148	**Uruguay**	81, 134
South Africa	111	**Venezuela**	81, 97
Spain	81, 134, 140	**Zambia**	103
Sri Lanka	81	**Zimbabwe**	100
Suriname	62		
Non-metropolitan territories			
France: French Guiana	**81**	**Netherlands: Aruba**	**81**
France: French Polynesia	**149**	**United Kingdom: Gibraltar**	**100**
France: Martinique	**81, 129**		

114. All these cases provide an indication of the efforts made by governments to ensure that their national law and practice are in conformity with the provisions of the ILO Conventions they have ratified.

Role of employers' and workers' organizations

115. At each session, the Committee draws the attention of governments to the important role of employers' and workers' organizations in the application of Conventions and Recommendations. Moreover, it highlights the fact that numerous Conventions require consultation with employers' and workers' organizations, or their collaboration in a variety of measures. The Committee notes that almost all governments have indicated in the reports supplied under articles 19 and 22 of the Constitution the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, they have communicated copies of the reports supplied to the Office. Almost all governments have indicated the organizations to which they have communicated copies of the information supplied to the Office on the submission to the competent authorities of the instruments adopted by the Conference.

116. In accordance with established practice, in March 2001 the Office sent to the representative organizations of employers and workers a letter outlining the various opportunities open to them of contributing to the implementation of Conventions and Recommendations, accompanied by relevant documentary material, and a list of the reports due from their respective governments and copies of the Committee's comments to which the governments were invited to reply in their reports.

Observations made by employers' and workers' organizations

117. Since its last session, the Committee has received 195 observations (compared to 311 last year), 34 of which were communicated by employers' organizations and 161 by workers' organizations. The Committee stresses the importance it attaches to this contribution by employers' and workers' organizations to the tasks of the supervisory bodies, which is essential for the Committee's evaluation of the application of ratified Conventions in law and in practice. It therefore hopes that employers' and workers' organizations are fully aware of this possibility and invites them to make greater use of it to continue and to augment their contribution to the supervisory system.

118. The majority of observations received (180) relate to the application of ratified Conventions (see Appendix III). Fifteen observations relate to the reports provided by governments under article 19 of the Constitution of the ILO relating to the Dock Work Convention (No. 137) and Recommendation (No. 145), 1973.[19]

119. The Committee notes that, of the observations received this year, 98 were transmitted directly to the Office which, in accordance with the practice established by the Committee, referred them to the governments concerned for comment. In 90 cases the governments transmitted the observations with their reports, sometimes adding their own comments.

120. The Committee also examined a number of other observations by employers' and workers' organizations, consideration of which had been postponed from the last session because the observations of the organizations or the replies of the governments had arrived just before or just after the session. It has had to postpone the examination of a number of observations to its next session, when they were received too close to or even during the Committee's present session, in particular to allow reasonable time for the governments concerned to make comments.

121. The Committee notes that in most cases the employers' and workers' organizations endeavoured to gather and present precise elements of law and fact on the application in practice of ratified Conventions. The Committee recalls that for the purpose of its examination it is important for organizations to give adequate details.

122. The Committee notes that the matters dealt with in these observations have touched on a very wide range of Conventions. The second part of this report contains most of the comments made by the Committee on cases in which the comments raised matters relating to the application of ratified Conventions. Where appropriate, other comments are examined in requests addressed directly to the governments.

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[19] See the report in Part III (Part 1B) regarding the General Survey.

123. The Committee notes that, with 103 ratifications, the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), is now binding on over half the member States. In its General Survey on this subject in 1999,[20] the Committee emphasized that tripartite dialogue is essential in carrying out all the work of the ILO. The Committee hopes that many other countries will envisage ratifying Convention No. 144 in the near future.

Submission of Conventions and Recommendations to the competent authorities

(article 19, paragraphs 5, 6 and 7, of the Constitution)

124. In accordance with its terms of reference, the Committee this year examined the following information supplied by the governments of member States, pursuant to article 19 of the Constitution of the International Labour Organization:

(a) information on the steps taken to submit to the competent authorities the instruments on the worst forms of child labour (Convention No. 182 and Recommendation No. 190), adopted by the Conference at its 87th Session (June 1999);

(b) information on the steps taken to submit to the competent authorities the instruments on maternity protection (Convention No. 183 and Recommendation No. 191), adopted by the Conference at its 88th Session (May-June 2000);

(c) additional information on the steps taken to submit to the competent authorities the instruments adopted by the Conference from its 31st Session (1948) to its 87th Session (June 1999) (Conventions Nos. 87 to 182, Recommendations Nos. 83 to 190 and the Protocols); and

(d) replies to the observations and direct requests made by the Committee at its previous session (November-December 2000).

125. The table in Appendix IV of Part Two of this report shows the position of each member State on the basis of the information supplied by governments regarding the obligation to submit instruments adopted by the Conference to the competent authorities. Appendix V shows the overall situation with regard to the instruments adopted since the 31st Session of the Conference (June 1948). Appendix VI contains a summary indicating, where the information has been provided, the name of the competent authority and the date of the submission of the instruments adopted by the Conference at its 87th and 88th Sessions (June 1999 and May-June 2000).

A. 87th Session

126. In response to the Director-General's appeal for the highest priority to be given to the ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182), some governments were particularly prompt in providing information on the steps taken with a view to the submission of this instrument, adopted by the Conference on 17 June 1999 at its 87th Session. The period of 12 months within which the instruments adopted in June 1999 were to be submitted to the competent authorities expired on 17 June 2000, and the period of 18 months on 17 December 2000. The Committee notes with interest the information on submission to the competent authorities provided by the following 78 States, in addition to those mentioned in its last report: **Algeria, Angola, Austria, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Botswana, Bulgaria, Burkina Faso, Burundi, Canada, Central African Republic, Chad, China, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Finland, Germany, Ghana, Greece, Guatemala, Guinea-Bissau, Guyana, Hungary, Indonesia, Islamic Republic of Iran, Jamaica, Japan, Republic of Korea, Lebanon, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Mauritania, Mauritius, Mexico, Republic of Moldova, Mongolia, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Norway, Papua New Guinea, Paraguay, Romania, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Syrian Arab Republic, Tunisia, Turkey, Ukraine, United Kingdom, United States, Uruguay, Viet Nam**.

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[20] *Tripartite consultation*, ILC, 88th Session, 2000, Report III (Part 1B).

B. 88th Session

127. The instruments on maternity protection adopted at the 88th Session (May-June 2000) of the Conference were to be submitted to the competent authorities within one year or, under exceptional circumstances, within 18 months of the close of the session, the final dates for submission being 15 June 2001 and 15 December 2001, respectively. The following 61 governments have provided information on the steps taken with a view to the submission of the Maternity Protection Convention (No. 183), and Recommendation (No. 191), 2000, to the authorities which they consider competent: **Albania, Antigua and Barbuda, Bahrain, Barbados, Belarus, Benin, Botswana, Bulgaria, Canada, Costa Rica, Czech Republic, Dominican Republic, Ecuador, Egypt, Estonia, Finland, Germany, Greece, Islamic Republic of Iran, Israel, Italy, Japan, Jordan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, Netherlands, New Zealand, Nicaragua, Norway, Oman, Philippines, Poland, Romania, Russian Federation, Rwanda, Saudi Arabia, Senegal, Seychelles, Singapore, Slovakia, Slovenia, Sudan, Switzerland, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, Viet Nam**. The Committee notes that the first two ratifications of Convention No. 183 having been registered, this instrument will come into force on 2 February 2002.

C. 31st to 86th Sessions

128. The Committee welcomes the special efforts made, particularly by the Governments of **Honduras**, **Kenya**, **Lesotho** and the **Seychelles**, for the submission to the competent authorities of the instruments adopted by the Conference over several sessions.

D. General aspects

129. This year once again, the Committee is pleased to be able to note that 130 Members have already submitted the instruments adopted by the Conference at its 87th Session, namely the Worst Forms of Child Labour Convention (No. 182) and Recommendation No. 190, 1999, and that, to date, the Office has registered more than 100 ratifications of Convention No. 182. Thanks to the timely submission of the instruments as prescribed by the ILO Constitution and to the initiatives taken by the Director-General and the Office to promote its ratification, this fundamental Convention has received a very large number of ratifications, which constitutes a contribution to the promotion of fundamental rights at work. The Committee hopes that these results will serve both to enhance fulfilment of the constitutional obligation to submit instruments, and to promote dissemination of the standards adopted by the Conference and the ratification of recent Conventions.

130. The Committee again refers to the general considerations it formulated in November-December 1998 on the manner in which the obligations relating to the submission to the competent authorities of the instruments adopted by the Conference are being met. During the discussion in the Committee on the Application of Standards at the 89th Session of the Conference (June 2001) in which several instances of very long delays in submitting were noted, the Employer and Worker members reiterated the importance of bringing the instruments adopted by the Conference to the knowledge of parliamentary bodies within the time limit established by the Constitution of the Organization, while recalling that governments nonetheless remain entirely free to propose any action which they may judge appropriate in respect of the instruments adopted by the Conference.

131. The Committee emphasizes that the specific aim of submission – to acquaint parliamentary bodies with the instruments in question – in no way affects the freedom of decision of the competent state body regarding ratification of a Convention. Whether the decision is for or against ratification, the procedures that submission entails afford the national authorities and the social partners an opportunity to examine thoroughly the instruments adopted by the Conference. Furthermore, referral to parliamentary bodies serves to inform the machinery of State about the instruments adopted by the Conference and to make public opinion aware of the standards set by the ILO.

132. Lastly, under the terms of article 23, paragraph 2, of the Constitution, Members must ensure that the representative organizations of employers and of workers receive copies of any communications addressed to the ILO concerning the submission to the competent authorities of instruments adopted by the Conference. This provision is designed to enable employers' and workers' organizations to formulate their own observations on the action that has been taken or needs to be taken with regard to the instruments in question.

E. Comments of the Committee and replies from governments

133. As in its previous reports, the Committee makes individual observations in section III of Part Two of this report on the points that it considers should be brought to the special attention of governments. In addition, requests with a view to obtaining supplementary information on other points have been addressed directly to a number of countries, which are listed at the end of section III.

134. The Committee wishes to emphasize once again the importance of the communication by governments of the information and documents called for in *points I and II of the questionnaire* at the end of the *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, adopted by the Governing Body in 1980. The Committee should be able to examine a summary or a copy of the documents by which the instruments have been submitted to the parliamentary bodies and the proposals made as to the effect to be given to the instruments adopted by the Conference. The Committee stresses that the obligation to submit is not completed until the instruments adopted by the Conference have been submitted to the Parliament and a decision has been taken with respect to them. This decision and the information on the submission must be communicated to the Office. The Committee trusts that the governments concerned will take suitable measures, as proposed in the observations and direct requests addressed to them.

F. Special problems

135. The Committee notes with regret that the governments of the following 20 countries have not provided information indicating that the instruments adopted at the last seven sessions at least (from the 81st to 87th Sessions) have in fact been submitted to the competent authorities: **Afghanistan, Armenia, Bolivia, Cambodia, Cameroon, Comoros, Congo, Grenada, Haiti, Kazakhstan, Kyrgyzstan, Latvia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Suriname, Syrian Arab Republic, Turkmenistan, Uzbekistan**.

136. The Committee further notes that some States which have ratified Convention No. 182 and which were mentioned in previous reports (**Angola, Belize, Bosnia and Herzegovina, Central African Republic, Dominica, Guinea-Bissau, Madagascar, Mali, Pakistan, Saint Lucia, Senegal**) still have instruments to submit from over seven sessions of the Conference.

137. It is a source of deep concern to the Committee that these countries, as most of the situations referred to in the observations in Part III of this report illustrate, have accumulated such a long backlog. Indeed, there is a danger that some of them may find it very difficult, or even impossible, to bring themselves up to date. Furthermore, neither the legislative authorities nor public opinion in these countries are regularly informed of the existence of new instruments as they are adopted by the Conference, which defeats the real purpose of the obligation of submission as explained in the preceding paragraphs.

138. The nature and the scope of the obligation to submit instruments has been recalled in individual observations made to certain States, taking into account the explanations provided by them in their reports. The Committee expresses the firm hope, as did the Conference Committee, that the governments concerned will act promptly to submit the instruments adopted at the sessions concerned and that it will be able to note progress achieved in this respect in its next report. Lastly, the Committee recalls the possibility available to governments to call on the Office for the technical assistance that it is able to provide in order to endeavour to resolve this type of problem, particularly through the multidisciplinary advisory teams.

Instruments chosen for reports under article 19 of the Constitution

139. In accordance with the decisions taken by the Governing Body, governments were requested to supply reports under article 19 of the ILO Constitution on the Dock Work Convention (No. 137) and Recommendation (No. 145), 1973.

140. A total of 328 reports were requested and 163 received.[21] This represents 49.7 per cent of the reports requested.

141. The Committee notes with regret that, for the past five years, none of the reports on unratified Conventions and Recommendations requested under article 19 of the ILO Constitution has been received from the following 22 countries: **Afghanistan, Bosnia and Herzegovina, Equatorial Guinea, Fiji, Georgia, Grenada, Guinea, Guinea-Bissau, Iceland, Iraq, Lao People's Democratic Republic, Liberia, Nigeria, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Sierra Leone, Solomon Islands, The former Yugoslav Republic of Macedonia, Turkmenistan, Uzbekistan.**

142. The Committee urges governments once again to provide the reports requested so that its General Surveys can be as comprehensive as possible.

143. Part Three of this report (issued separately as Report III (Part 1B)) contains the General Survey on dock work. In accordance with the practice followed in previous years, the survey has been prepared on the basis of a preliminary examination by a working party comprising four persons appointed by the Committee from among its members.

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144. Lastly, the Committee would like to express its appreciation for the invaluable assistance again rendered to it by the officials of the Office, whose competence and devotion to duty make it possible for the Committee to accomplish its increasingly voluminous and complex task in a limited period of time.

Geneva, 7 December 2001.

(Signed) Sir William Douglas,
Chairperson.

E. Razafindralambo,
Reporter.

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[21] ILO: Report III (Part 1B), ILC, 90th Session, 2002.

PART TWO

Observations concerning particular countries

OBSERVATIONS CONCERNING PARTICULAR COUNTRIES

I. Observations concerning reports on ratified Conventions
(article 22 of the Constitution)

A. General observations

Afghanistan

The Committee notes with regret that, for the fifth year in succession, the reports due have not been received. While taking note of the national situation, it hopes that appropriate measures will be taken to ensure application of the ratified Conventions as soon as the circumstances so permit.

Antigua and Barbuda

The Committee notes that the reports due have not been received. It trusts that the Government will in future discharge its obligation to supply reports on the application of ratified Conventions.

Armenia

The Committee notes that, for the seventh year in succession, the reports due have not been received. It also notes with regret that the first report due since 1995 on Convention No. 111 has not been received; nor have the first reports due since 1996 on Conventions Nos. 100, 122, 135 and 151, nor the first report due since 1998 on Convention No. 174. The Committee trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

Belize

The Committee notes that the first report due since 2000 on Convention No. 14 has not been received. The Committee trusts that the Government will not fail in future to discharge its obligation to supply the report due on the application of this Convention, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

Bosnia and Herzegovina

The Committee notes with regret that for many years the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

Chad

The Committee notes that the first report due since 2000 on Convention No. 151 has not been received. The Committee trusts that the Government will not fail in future to discharge its obligation to supply the report due on the application of this Convention, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

Democratic Republic of the Congo

The Committee notes with regret that most of the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

Equatorial Guinea

The Committee notes with regret that, for the fourth year in succession, the reports due have not been received. It also notes with regret that the first reports due since 1998 on Conventions Nos. 68 and 92 have not been received. The Committee trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

Fiji

The Committee notes that the first reports due since 2000 on Convention Nos. 144 and 169 have not been received. The Committee also notes that the reports due have not been received. The Committee trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

Grenada

The Committee notes with regret that the first report due since 1996 on Convention No. 100 has not been received. It trusts that the Government will not fail in future to discharge its obligation to supply the report due on the application of this Convention, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

Ireland

The Committee notes that the first report due since 2000 on Convention No. 172 has not been received. It trusts that the Government will not fail in future to discharge its obligation to supply the report due on the application of this Convention, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

Kyrgyzstan

The Committee notes that, for the third year in succession, the reports have not been received. It also notes that the first report due since 1995 on Convention No. 133 has not been received. The Committee trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

Liberia

The Committee, once again noting the evolution of the national situation, nevertheless notes with regret that the first report due since 1992 on Convention No. 133 has not been received. It trusts that the Government will not fail in future to discharge its obligation to supply the report due on the application of this Convention, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

Libyan Arab Jamahiriya

The Committee notes that most of the reports received under article 22 of the Constitution have not been communicated to the organizations of employers and workers in accordance with article 23, paragraph 2. It hopes that in future the Government will not fail to discharge this obligation under the ILO Constitution.

Mongolia

The Committee notes with regret that the first report due since 1998 on Convention No. 135 has not been received; nor have the first reports due since 2000 on Conventions Nos. 144, 155 and 159. The Committee trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

Sao Tome and Principe

The Committee notes with regret that, for the fourth year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

Sierra Leone

The Committee notes with regret that, for the seventh year in succession, the reports due have not been received. While taking note of the national situation, it hopes that appropriate measures will be taken to ensure application of the ratified Conventions as soon as circumstances so permit.

Slovakia

The Committee notes that most of the reports due have not been received. It trusts that the Government will in future discharge its obligation to supply reports on the application of ratified Conventions.

Solomon Islands

The Committee notes with regret that, for the fourth year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

United Republic of Tanzania

The Committee notes that most of the reports due have not been received. It trusts that the Government will in future discharge its obligation to supply reports on the application of ratified Conventions.

Zanzibar

The Committee notes with regret that for many years the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

The former Yugoslav Republic of Macedonia

The Committee notes with regret that, for the fourth year in succession, the reports due have not been received. It trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

Turkmenistan

The Committee notes with regret that, for the third year in succession, the reports due have not been received. It also notes that the first reports due since 1999 on Conventions Nos. 29, 87, 98, 100, 105 and 111 have not been received. The Committee trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

Uzbekistan

The Committee notes with regret that, for the sixth year in succession, the reports due have not been received. It also notes with regret that the first reports due since 1996on Conventions Nos. 47, 52, 103 and 122 have not been received; nor have the first reports due since 1998 on Conventions Nos. 29 and 100, nor the first reports due since

1999 on Conventions Nos. 98, 105, 111, 135 and 154. The Committee trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified Conventions, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Barbados, Belize, Bolivia, Cambodia, Comoros, Congo, Côte d'Ivoire, Djibouti, Ethiopia, Grenada, Guinea, Haiti, Iraq, Kazakhstan, Liberia, Malaysia, Malaysia* (Peninsular Malaysia, Sarawak), *Mongolia, Nigeria, Paraguay, Saint Lucia, Saint Vincent and the Grenadines, Slovenia, Swaziland, Tajikistan, United Republic of Tanzania* (Tanganyika), *Uganda*.

B. Individual observations

Convention No. 1: Hours of Work (Industry), 1919

Equatorial Guinea (ratification: 1985)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> Further to its previous comments concerning *Article 6 of the Convention*, the Committee notes with satisfaction the provisions of Act No. 2/1990, issuing the general labour regulations, which set out the permanent and temporary exceptions to normal working time that are authorized (section 49). It also notes the provisions of the same Act concerning the exceptions to be allowed in case of accident, actual or threatened, or in case of urgent work, or in case of *force majeure*, in accordance with *Article 3*.
>
> The Committee would be grateful if the Government would provide the text of the regulations implementing section 49 of Act No. 2/1990, which are to be made after consultation with employers' and workers' organizations. It notes in this connection the Government's statement that Act No. 12/1992 of 1 October 1992, respecting trade unions and collective labour relations, opens up prospects for the formation of workers' and employers' organizations which will have a role to play in making regulations and fixing working conditions.
>
> More generally, the Committee asks the Government to provide information on the way in which the Convention is applied, including, for example, extracts of labour inspection reports or statistics, as requested in the report form *(Part V)*.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Peru (ratification: 1945)

The Committee notes the comments by the General Confederation of Peruvian Workers (CGTP) of 23 April 2001 and of 6 June 2001 concerning the application of the Convention, as well as the Government's response of 3 September 2001. It further notes that according to the sworn statement of a group of mining workers of the mining company "Milpo SA", the employer, under the threat of terminating their employment, obliged them to accept a 14-day working schedule of 12 hours and seven days of rest.

The Committee recalls that under *Article 2(c) of the Convention*, where persons are employed in shifts, it shall be permissible to employ persons in excess of eight hours in any one day and 48 hours in any one week, if the average number of hours over a period of three weeks or less does not exceed eight per day and 48 per week. The Committee considers that the working time schedule described by the CGTP is not in compliance with *Article 2* of the Convention, since the average weekly number of hours over a period of three weeks amounting to 56 hours per week would exceed the limit prescribed by *Article 2(c)* (48 hours per week).

The Committee further notes that copies of individual labour agreements concluded between workers and the mining company "Milpo SA", sent by the Government with its response, provide for a working day of ten hours for 14 consecutive working days and seven days of rest. This would amount to a working week of 46.7 hours, which is under the limit of 48 hours per week permitted by *Article 2(c)* of the Convention. The Committee asks the Government to indicate how it is ensured in practice that the actual working time does not exceed the working time specified in individual labour agreements (which should not exceed the standard prescribed by the Convention) and collective agreements and that it is set in compliance with standards prescribed by the Convention.

Convention No. 3: Maternity Protection, 1919

Mauritania (ratification: 1963)

With reference to its previous comments, the Committee notes with regret that the Government's latest report contains no information on the practical application of the Convention. It hopes that the Government will be in a position to provide this information in its next report, in accordance with *Part V of the report form* adopted by the Governing Body.

* * *

In addition, a request regarding certain points is being addressed directly to *Argentina*.

Convention No. 4: Night Work (Women), 1919

A request regarding certain points is being addressed directly to the *Lao People's Democratic Republic*.

Convention No. 5: Minimum Age (Industry), 1919

Requests regarding certain points are being addressed directly to the following States: *Saint Lucia, Saint Vincent and the Grenadines*.

Convention No. 6: Night Work of Young Persons (Industry), 1919

Burkina Faso (ratification: 1960)

The Committee notes the information supplied by the Government in its report and, particularly, the information that revision of Order No. 539 of 29 July 1954 is not yet effective since the Labour Code is still undergoing rereading. It urges the Government to take the necessary measures in the near future to bring Order No. 539 of 29 July 1954 into conformity with the Convention. To this end, the Committee draws the Government's attention to the following points.

Article 2, paragraphs 1 and 2, of the Convention. In the comments it has been making for many years, the Committee draws the Government's attention to the fact that section 3 of Order No. 539 of 29 July 1954 on child labour limits the prohibition on night work to children under 18 years old who are labourers and apprentices, whereas *Article 2, paragraph 1*, concerns all young persons under 18 years of age employed in industry as manual or non-manual workers. The Committee also referred to section 7 of Order No. 539 which allows derogation from the prohibition of night work for young male persons aged from 16 to 18 years in all factories which work continuously. In this respect, the Committee recalls that *Article 2, paragraph 2*, concerns only five specific industrial sectors: iron and steel mills, glassworks, paper factories, factories manufacturing raw sugar and gold mining reduction work. Consequently, the derogations under section 7 of the above Order are wider than those authorized by the Convention. The Committee notes once again the Government's information to the effect that the revision of Order No. 539 is still not effective since the Labour Code is still undergoing rereading. The Committee notes with regret that since ratification of the Convention in 1960 it has been drawing the Government's attention to these provisions and that no measures have yet been taken. The Committee is bound to stress that the Government should take urgent measures in order to bring the legislation in question into conformity with the Convention.

Article 4. The Committee notes the information supplied by the Government to the effect that section 5 of Order No. 539 of 29 July 1954 provides for temporary derogation for young male persons aged over 16 years in cases where the industry uses materials subject to very rapid alteration. The Committee notes that section 5 of Order No. 539 of 29 July 1954 allows this derogation with a view to averting imminent accidents or to repair damage from accidents that have occurred. It emphasizes, moreover, that section 5 of Order No. 539 of 29 July 1954 has a wider scope than that laid down in *Article 4* of the Convention which allows derogation in the event of emergency. The Committee therefore requests the Government to take the necessary measures to bring section 5 of Order No. 539 of 29 July 1954 into conformity with the Convention.

[The Government is asked to report in detail in 2002.]

Chile (ratification: 1925)

Article 3 of the Convention. In its comments since 1984 the Committee has noted that the provision concerning prohibition of night work for minors is not consistent with the provisions of the Convention. The former section 19 of Act No. 18,620 of 1987, which became section 18 of the Labour Code (reformulated and systematized) of 1994 lays down a prohibition on all night work for persons under 18 years of age performed in industrial establishments between 10 p.m. and 7 a.m. This night period of nine hours long is contrary to *Article 3* of the Convention which indicates a period of at least 11 consecutive hours.

The Committee notes the Government's indication in its latest report concerning section 227 of the industrial hygiene and security regulations (Supreme Decree No. 655) which establishes the prohibition for persons under the age of 18 years of all night work, that being understood as meaning work performed to between 8 p.m. and 7 a.m. This provision gives effect to the requirement of at least 11 consecutive hours.

The Committee notes the discrepancy between sections 18 of the Labour Code and 227 of the industrial hygiene and safety regulations in respect of the period during which work shall not be performed by minors.

The Committee noted in previous comments the Government's statement to the effect that the Committee's observation would be taken into consideration in reforming the Labour Code. The Committee notes the message No. 136-313 and the draft Bill to amend the Labour Code which is before Congress for consideration. The Committee regrets that there is no proposal in the draft Bill to amend section 18. The Committee urges the Government to reconsider this omission.

The Committee trusts that the Government will take the necessary measures to harmonize the various provisions of national legislation with each other and with the provisions of the Convention and will supply information on progress made to this end.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Benin, Colombia, Venezuela*.

Information supplied by *Belgium* in answer to a direct request has been noted by the Committee.

Convention No. 7: Minimum Age (Sea), 1920

Requests regarding certain points are being addressed directly to the following States: *Guinea-Bissau, Saint Vincent and the Grenadines*.

Convention No. 8: Unemployment Indemnity (Shipwreck), 1920

Jamaica (ratification: 1963)

With reference to its previous comments, the Committee notes with interest from the information provided by the Government in its last report that a new Shipping Act was adopted in 1998. According to its section 144(2) where the service of a seaman terminates before the date contemplated in his agreement by reason of the wreck, loss or foundering of the ship on which he is employed, he shall be entitled to receive wages in respect of each day on which he is in fact unemployed during the period of two months from the date of termination of the service at the rate to which he was entitled at that date. The Committee would be grateful if the Government would indicate whether the new legislation has removed the exception contained in section 157 of the United

Kingdom Merchant Shipping Act, 1894, on which it commented previously, to the effect that "in all cases of wreck or loss of ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages". Furthermore, the Committee would be grateful if the Government would supply the text of the new Shipping Act.

Nicaragua (ratification: 1934)

Article 1, paragraph 1, of the Convention. In its previous comments, the Committee drew the Government's attention to section 161 of the Labour Code which excludes masters and officers from the definition of the term "seamen", whereas this provision of the Convention does not permit such exclusions when determining the persons entitled to receive an unemployment indemnity in the event of the loss or foundering of a vessel. In its latest report, the Government indicates that masters and officers who are engaged in managerial and administrative duties are considered to be "trusted" workers and may in this capacity benefit from the indemnity envisaged in section 47 of the Labour Code. The Committee notes this information. It observes in this respect that the indemnity envisaged in section 47 is intended as compensation when it is impossible to reinstate "trusted" workers who have been wrongfully dismissed. This indemnity cannot therefore be considered as an unemployment indemnity within the meaning of the Convention. The Committee therefore trusts that the Government will adopt the necessary amendments to section 161 of the Labour Code in the very near future so as to ensure that masters and officers benefit from the protection afforded by the Convention in the event of the loss or foundering of their ship.

Article 2, paragraph 2. In reply to the Committee's previous comments, the Government refers to several fundamental principles set forth in the Labour Code. Some of these principles relate to the direct application of international Conventions ratified by Nicaragua. While noting this information, the Committee reminds the Government that the provisions of the national legislation (section 167 of the Labour Code) are not sufficient to ensure the application of *Article 2, paragraph 2,* of the Convention. Indeed, the above provision of the Labour Code is confined to securing, where appropriate, payment to the seaman of an indemnity in accordance with the legislation, without specifying either the nature of the indemnity nor the conditions under which it is granted, while the Convention provides that the unemployment indemnity due to the seaman in every case of the loss or foundering of the vessel shall be paid for the days during which the seaman remains in fact unemployed for a period of at least two months. In these conditions, the Committee trusts that the Government will make the necessary amendments to section 167 of the Labour Code so as to ensure that the national legislation explicitly guarantees seamen the protection envisaged by this provision of the Convention.

Portugal (ratification: 1981)

Article 2 of the Convention. Since the Convention entered into force for Portugal, the Committee has been drawing the Government's attention to section 239 of the Regulation on Maritime Employment which, by limiting the period of unemployment indemnity and subjecting the right to compensation to the diligence shown by the crew in protecting the vessel, is not in conformity with this provision of the Convention. In its latest report, the Government indicates that in practice seamen no longer conclude an employment contract with a particular vessel but with a shipowner and can thus continue to work on another vessel belonging to the shipowner in the event of shipwreck. In addition, if the seaman has a fixed-term employment contract which is terminated because of the shipwreck he will be entitled, under section 42-2 of the collective agreement for the merchant shipping sector, to the compensation for termination of contract provided by general legislation (section 46 of Legislative Decree No. 64-A/89). Furthermore, seamen are covered by the social security system which provides for an allowance intended to compensate for loss or reduction in income, especially in the event of involuntary unemployment resulting from termination of the employment contract. This allowance is paid for a time which varies in accordance with the beneficiary's age but may not be less than 12 months.

The Committee notes this information. While noting that there exist in practice mechanisms for protecting against unemployment which apply to seamen, the Committee emphasizes that the indemnity against unemployment provided by the Convention must be granted unconditionally for at least two months and it must be paid at the same rate as the wages payable under the contract. It recalls, in addition, that despite the existence of the abovementioned protection mechanisms, the Government recognized in its previous reports the need to amend section 239 of the Regulation on Maritime Employment in order to ensure conformity with this provision of the Convention. The Committee therefore hopes that the Government will be able to re-examine this question and will take all the necessary measures to ensure full application of the Convention in law and in practice.

Seychelles (ratification: 1978)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 2, paragraph 1, of the Convention.* In its previous comments, the Committee noted that the restriction provided for under section 9, paragraph 1, of the Merchant Shipping (Masters and Seamen) Regulations 1995, is not compatible with the Convention. The entitlement of the seaman to receive wages in the event of shipwreck, provided under section 10 of the same Regulations, is barred where it can be proved that the seaman has not exerted himself to the utmost to save the ship, cargo and stores. The Government reports in this connection, that this question has been referred to the Ministry of Environment and Transport, so that appropriate measures may be taken. The Committee notes this information and trusts that the Government will not fail to take all necessary measures to bring national legislation into line with *Article 2, paragraph 1*, of the Convention, which provides for payment to seamen of unemployment indemnity during a period of at least two months in the event of shipwreck, without restriction. The Committee requests the Government to communicate a copy of all texts adopted in this connection.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Sierra Leone (ratification: 1961)

The Committee notes with regret that for the fourth consecutive year the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> *Article 2 of the Convention.* The Committee notes from the information supplied by the Government in its report that the legislation necessary to give effect to the Convention has not yet been adopted. In view of the scant progress made in this regard despite the comments it has been making for many years, the Committee stresses once again that legislative measures should be taken to amend the Merchant Shipping Legislation so as to eliminate the bar to receipt of unemployment indemnity in case of shipwreck where it is proved that a seaman did not exert himself to the utmost to save the ship. The Committee trusts that in its next report the Government will be able to state that the necessary legislation has been adopted to ensure that full effect is given to the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Solomon Islands (ratification: 1985)

The Committee notes with regret that for the eighth consecutive year the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session, together with the text of the Labour (Seamen) Rules adopted in 1985, which, according to the Government's previous statement, provides for indemnity against unemployment in case of loss or foundering of a ship, without further qualifications, in conformity with this provision of the Convention. The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Fiji, Seychelles.*

Convention No. 9: Placing of Seamen, 1920

Argentina (ratification: 1933)

The Committee notes the information provided by the Government in November 2000 in reply to its observations in 1998 and 1999.

1. *Article 4 of the Convention.* In its observation of 1998, the Committee noted a communication by the Union of United Maritime Workers (SOMU), according to which employers opposed the establishment of a system of free employment offices for seafarers which would be organized and maintained jointly by the shipowners' and seafarers' representative organizations. The SOMU regretted the depressed state of the labour market in the sector, in which anarchic conditions and casual work prevailed. The Government indicates that in recent years collective agreements have been concluded (it provided the text of Collective Labour Agreement No. 307/99 concluded between the Chamber of Shipowners of Freezer Vessels (CAPECA) and the SOMU, in which the parties agreed upon the establishment and management of an employment fund), although most of these consist of agreements with enterprises for vessels exclusively flying the Argentine flag, which only account for 25 per cent of all workers in the sector. The Government refers to obstacles in securing compliance with collective agreements by signatory enterprises. The Government states that the Convention would be of great use for all the social partners in the sector in avoiding unregistered contracts.

2. Taking into account the circumstances mentioned by the Government in its report and by the SOMU, the Committee considers it appropriate to recall that, under the terms of *Article 4* of the Convention, an efficient and adequate system of public employment offices for seafarers may be organized and maintained by the joint action of representative associations of shipowners and seafarers *(paragraph 1(a))* or, in the absence of such joint action, by the State itself *(paragraph 1(b))*. The Committee therefore trusts that the Government will be in a position to indicate in its next report the measures adopted to give effect to the obligations set out in the above provision of the Convention.

3. *Article 5.* The Committee notes once again that the Government's report does not contain the information requested on the constitution of committees consisting of an equal number of representatives of shipowners and seafarers, as set out in *Article 5*. It hopes that measures will be taken to establish the consultative committees required by this provision of the Convention, that information will be provided in the next report on the progress achieved in this respect and that copies of the texts governing their composition and operation will be provided.

4. The Committee notes that the Recruitment and Placement of Seafarers Convention, 1996 (No. 179), has entered into force and that its ratification would result in the immediate denunciation of the present Convention. The Government may consider it appropriate to examine the possibility of ratifying the more recent Convention.

Cameroon (ratification: 1970)

Article 5 of the Convention. In its latest report, the Government indicates that a mission of the Ministry of Employment, Labour and Social Welfare to the ports of Kribi, Douala and Limbé in July 2001 held a working session with the authorities of the merchant service, the seamen's union and the shipowners' representative. The Committee notes that a resolution on the setting up of committees was taken at this meeting. It hopes that the Government will be in a position to report on the progress made with a view to constituting committees consisting of an equal number of representatives of shipowners and of seamen which will be consulted on all issues relating to the operation of employment offices for seamen as required by *Article 5* of the Convention.

Article 10. The Committee notes that, according to the Government, there are no seamen at Kribi port. It also notes that the census of seamen is in progress at Douala port and that Limbé port has eight seamen. It hopes that the Government will continue to supply information on unemployment among seamen and the operation of employment offices for seamen, in particular information concerning the activities of employment offices in the ports of interest of seamen.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Djibouti, Latvia.*

Convention No. 10: Minimum Age (Agriculture), 1921

Requests regarding certain points are being addressed directly to the following States: *Czech Republic, Grenada, Guinea, Saint Vincent and the Grenadines.*

Convention No. 11: Right of Association (Agriculture), 1921

Bangladesh (ratification: 1972)

The Committee takes note of the Government's report.

The Committee notes with regret that no additional information has been provided and that despite its numerous requests, the legislation remains unchanged.

In its previous comments, the Committee recalled that the provisions of the Industrial Relations Ordinance (IRO), 1969, applied only to agricultural workers employed in the organized sectors, namely agricultural farms, such as the tea gardens, sugar mills and other agricultural farms run on a commercial basis, and that agricultural workers including self-employed persons, were not covered by the IRO. As a result, the labour law is only applicable to 17 per cent of the working force in the agricultural sector and there is no legal status for 83 per cent of the labour force in the agricultural sector.

The Committee emphasizes that, under *Article 1 of the Convention*, all those engaged in agriculture should enjoy the same rights of association and combination as industrial workers, which is particularly important in countries where a large proportion of the workforce is engaged in agriculture, and that ratifying Members undertake to "repeal any statutory or other provision restricting such rights in the case of those engaged in agriculture".

The Government had previously indicated in its report that workers not covered by the IRO enjoy the right of association through cooperative societies under the Cooperative Societies Act, 1940, for improving welfare, economic and social development. The Government added that the farmers of Bangladesh were not organized, laadholdings were divided into very small units and, as such, legally based trade unions for agriculture workers were practically impossible.

The Committee urges the Government to modify the existing legislation concerning agricultural workers to ensure that all those engaged in agriculture enjoy the same rights of association and combination as industrial workers and to repeal any statutory or other provisions restricting such rights.

It recalls that ILO technical assistance is available in this respect should the Government so desire.

Burundi (ratification: 1963)

The Committee notes the information provided by the Government in its report.

The Committee recalls that its previous comments concerned Legislative Decree No. 1/90 of 25 August 1967 on rural associations which provides that, in the event of public subsidy, the Minister of Agriculture may establish rural associations (section 1), membership of which is compulsory (section 3) and that he determines their statutes (section 4). It also provides that the obligations of agricultural workers who are members of these associations include the provision of services for the common enterprise, the payment of a single or regular contribution, the provision of agricultural or livestock products and the observance of rules respecting cultural discipline and other matters (section 7), under penalty of the seizure of the member's property (section 10).

The Committee takes due note of the Government's statement in its latest report in which it reiterates that the above Decree has never been applied, that no texts have been issued for its application since its adoption and that it is urgent to specifically repeal the Decree. In this respect, the Committee requests the Government to forward it the text repealing the Decree as soon as it is adopted and, in the meantime, to keep it informed of any application of the abovementioned sections.

Czech Republic (ratification: 1993)

The Committee takes note of the information provided by the Government in its report. In its previous comments the Committee had noted that paragraph 2 of Law No. 83 of 1990 as amended by Law No. 300 of 19 July 1990, guaranteed the right of association to all citizens, and had requested the Government to indicate if foreign agricultural workers legally residing in the country were also granted trade union rights. The Government indicates in its report that article 27 of the Charter of fundamental rights and freedoms (Constitutional Act No. 23/1991) provides that every person has the right to associate freely with others for the protection of their economic and social interests. Article 42, subsection 3 of the Charter states that the use of the term "citizen" in legislative provisions concerning fundamental rights and freedoms granted by the Charter applies to all persons, regardless of their citizenship. The Government indicates that as a constitutional act, the Charter has superiority over ordinary provisions, including Act No. 83/1990, which has become obsolete in its use of the term "citizen". In practice there have been no cases where the right to organize was denied on grounds of foreign nationality, as foreign workers are granted trade union rights. The Government also indicates that it had prepared a draft act on association ensuring the right to organize to all persons which was, however, rejected by Parliament.

The Committee notes with interest the Government's efforts to amend Act No. 83/1990 to ensure that the right to organize applies to all persons. Given that according to the Government's report, the use of the term "citizen" in the Act represents no particular obstacle in respect of the trade union rights of agricultural workers, the Committee will continue to pursue this matter under Convention No. 87.

India (ratification: 1923)

The Committee notes the information provided in the Government's report.

The Committee takes note of the Government's reply concerning the Trade Union Act of 1926. According to the Government, while it is true that the Trade Union Act does not expressly include agriculture, it would not be correct to conclude that it excludes small agricultural farmers, self-employed workers and smallholders from its scope. The Committee would once again recall, however, that the National Commission on Rural Labour (NCRL) (mandated to study all aspects of the conditions of work relating to this sector and to examine the legal and administrative measures taken in order to organize rural labour, to suggest modification in the existing laws and to propose new legislation) concluded in 1991 that organized trade union activity is much less prevalent among rural labour in the country, only about 5 per cent of rural labour in the country is formally organized, and that trade unions have largely confined their activities in favourable areas where labourers have regular employment and work together in large numbers. The NCRL had stressed in particular that care should be taken to see that the following categories do not get excluded in any legislation that might be proposed in respect of agricultural workers: "those with some land but who have to supplement their income by working as labourers for wages for a portion of the year, those who work on a contract basis for an agricultural or allied activity, and those who are styled as permanent servants, attached workers or casual workers".

While noting the practical information provided by the Government concerning the central level unions/associations of agricultural workers, the Committee would ask the Government once again to supply information concerning the number of self-employed workers engaged in agriculture who are union members and to provide statistics more generally on the number and type of agricultural workers' unions registered under the Trade Union Act.

Rwanda (ratification: 1962)

The Committee notes the Government's report.

Article 1 of the Convention (all those engaged in agriculture have the same rights of association and combination as industrial workers). The Committee recalls that its previous comments concerned the exclusion of agricultural workers from the scope of the Labour Code of 1967 (section 186). The Committee had recalled in this regard that, under the terms of *Article 1 of the Convention*, the Government must secure to all those engaged in agriculture the same rights of association and combination as to industrial workers.

The Committee notes the Government's indications according to which the new law amending the Labour Code has been adopted by the Transitional National Assembly in 2000, and it is currently before the Supreme Court in order to verify its constitutionality, which is a necessary step before its promulgation. The Government indicates that under the terms of section 2 of the new law, the exclusion of agricultural workers from the scope of the Labour Code has been dropped. The Committee takes note of this information with interest and asks the Government to send it a copy of the new law amending the Labour Code as soon as it is promulgated, as well as any statistics concerning agricultural organizations which may be formed once the new Code comes into force.

Syrian Arab Republic (ratification: 1960)

The Committee notes the information provided in the Government's latest report. It notes with satisfaction that sections 160 and 262 of Act No. 136 issuing the Agricultural Labour Code of 1958, which prohibited strikes in the agricultural sector under the penalty of imprisonment of from three months up to one year, were repealed by section 1 of Law No. 34, promulgated on 21 December 2000.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Azerbaijan, Saint Vincent and the Grenadines, Swaziland.*

Information supplied by *Gabon* in answer to a direct request has been noted by the Committee.

Convention No. 12: Workmen's Compensation (Agriculture), 1921

Requests regarding certain points are being addressed directly to the following States: *Guinea-Bissau, Latvia, Slovakia.*

Convention No. 13: White Lead (Painting), 1921

Comoros (ratification: 1978)

1. The Committee notes the comments made by the Union of Autonomous Comorian Workers' Organizations (USATC) and the Government's reply.

The Union of Autonomous Comorian Workers' Organizations (USATC) observes that, owing to the lack of occupational health services, it is difficult to confirm categorically the non-existence of victims of lead poisoning. This being the case, the USATC requests that occupational health services be established, taking account of developments in the use of chemical products.

In its reply, the Government indicates that in view of the lack of a statistics department and an occupational health service, the labour administration service is unable to provide reliable statistics on morbidity and mortality due to lead poisoning.

2. In addition, the Committee notes the brief information communicated by the Government in reply to its previous comments in which it reiterated the need for statistics to be provided on morbidity and mortality due to lead poisoning, pursuant to *Article 7 of the Convention.* In this regard the Government indicates that there is no enterprise in Comoros which uses chemical products capable of causing lead poisoning. In view of the comment by the USATC and the Government's observations, the Committee considers that the Government should take all necessary steps to evaluate the situation in the country concerning the use of white lead, lead sulphate and all products containing these pigments, which would be harmful to the health of workers, and consequently to establish statistics on the subject of lead poisoning in working painters. These statistics must cover both morbidity and mortality, in conformity with *Article 7* of the Convention. The Government hopes to adopt the necessary measures to this end, while requesting technical assistance from the ILO in the context of strengthening the capacity of the labour administration, in particular by the training of labour inspectors and occupational health physicians. The Committee therefore hopes that the Government will provide relevant information on the progress made with regard to the adoption of these measures.

Iraq (ratification: 1966)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 7 of the Convention.* The Committee notes the information provided by the Government according to which statistics concerning lead poisoning among working painters are not available.
>
> For several years now, the Committee has recalled that *Article 7* of the Convention provides that statistics as to morbidity and mortality with regard to lead poisoning among working painters shall be obtained. In previous comments, the Committee had noted that section 8(a) of the Instructions for the Prevention of Lead Poisoning among Painting Workers provides that cases of lead poisoning shall be reported and statistics kept and that, under section 9, the Department of Occupational Health and Safety in the Ministry of Labour is responsible for supervising the implementation of the instructions. In its report of 1993, the Government had indicated that cases of lead poisoning shall be reported to the Labour Inspectorate and that the Ministry of Health represents the competent authority responsible for keeping statistics concerning morbidity and morality due to lead poisoning, but that no such statistics were available. In its latest communication of 1997, the Government continues indicating that no statistics regarding lead poisoning among working painters are available. The Committee hopes that the Government will take the necessary measures to apply this Article of the Convention and will collect data to obtain statistics with regard to lead poisoning among working painters as to morbidity and mortality, and to ensure full implementation of all Articles of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Argentina, Azerbaijan, Benin, Cambodia, Côte d'Ivoire, Finland, Lao People's Democratic Republic, Latvia, Luxembourg, Mali, Russian Federation, Senegal, Slovenia, Suriname, Venezuela.*

Information supplied by *Cuba* in answer to a direct request has been noted by the Committee.

Convention No. 14: Weekly Rest (Industry), 1921

Bolivia (ratification: 1954)

The Committee notes the information contained in the Government's report. Referring to its observation of 1998 the Committee notes the information supplied in particular about possible agreements between employers and workers to grant compensatory rest in accordance with *Article 5 of the Convention.*

Article 5 of the Convention. The Committee recalls that *Article 5* of the Convention provides for, as far as possible, compensatory periods of rest in cases where exceptions have been made regarding the right to weekly rest. In this regard, the Committee once again points out that section 31 of Decree No. 244 (a regulation issued under the General Labour Law) allows more latitude to the employer than is envisaged under the Convention. The Committee must highlight with regret that since 1966 the Government indicates that amendments to the Labour Law will provide new regulations to bring the national legislation into conformity with *Article 5* of the Convention. The Committee notes that despite its numerous direct requests and observations during the last 34 years, the Government mentioned in its last report that the amendment of the General Labour Law is under preparation and will be finished within a "reasonable period". The Committee reiterates its hope that the Government will make every effort to adopt the necessary measures in the very near future. It hopes that the new legislation will be adopted as soon as possible with a provision to ensure that workers employed on a weekly rest day are granted compensatory rest. It requests the Government to continue to indicate the progress achieved in this respect and to supply a copy of the relevant text, when it is adopted.

Part VI of the report form. The Committee further notes that in the last report no information was supplied whether the report has been communicated to representative organizations of employers and workers and whether any observations have been received from these organizations.

The Committee requests the Government to supply full information on this point, as requested in the report form and article 23, paragraph 2, of the ILO Constitution.

Costa Rica (ratification: 1984)

The Committee notes the Government's response of 2 October 2001 to the comments previously made by the Confederation of Workers Rerum Novarum (CTRN). The Committee recalls that *Article 2 of the Convention* sets the standards for a normal weekly rest scheme (a period of rest comprising at least 24 consecutive hours in every period of seven days). It also recalls that under *Article 4, paragraph 1*, States may in certain circumstances introduce weekly rest schemes which form exceptions to the normal arrangements ("special weekly rest schemes"). Such special schemes should not be introduced without consultation with the representative organizations of employers and workers. The Committee further recalls that in addition to the introduction of special schemes operating on a permanent basis, *Article 4(1)* of the Convention provides for the possibility of making certain other adjustments to the normal weekly rest scheme for *temporary* reasons as outlined in paragraph 163 of the 1964 General Survey on weekly rest in industry, commerce and offices.

Under *Article 5* of the Convention, each ratifying State shall make, as far as possible, provision for compensatory periods of rest for the suspensions or diminutions made in virtue of *Article 4*, except in cases where agreements or customs already provide for such periods. The Committee wishes to draw the Government's attention to the fact that in principle it is the compensatory leave and not the cash compensation that should be provided. Furthermore, if the compensation in the form of cash became the rule under special schemes operating on a permanent basis, it would practically have the effect of depriving the workers of the rest to which they are entitled, and this on a continuous basis.

The Committee recalls that under section 152 of the Labour Code, work is permitted on the weekly rest day, with the consent of the parties, provided that the work is not heavy, unhealthy or dangerous and is carried out in agricultural or stock-raising establishments, or industrial undertakings which require continuity of work due to the nature of the needs which they satisfy or for an obvious public or social interest. Section

152 further provides that a worker shall receive double pay for work performed on a rest day.

Referring also to its previous comments, the Committee asks the Government to clarify whether the provisions of section 152 of the Labour Code relate to the possibility of the introduction of special schemes operating on a *permanent* basis or for the possibility of making certain other adjustments to the normal weekly rest scheme for *temporary* reasons and, in case of permanent exceptions, to take all necessary measures to bring these provisions into conformity with the Convention, so that workers in industry are entitled to a compensatory leave, regardless of any cash compensation.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Belarus, Chad, China, Estonia, Gabon, Haiti, Hungary, Kyrgyzstan, Lithuania, Mauritius, Solomon Islands, Tajikistan, Viet Nam.*

Information supplied by *Poland* in answer to a direct request has been noted by the Committee.

Convention No. 16: Medical Examination of Young Persons (Sea), 1921

Saint Vincent and the Grenadines (ratification: 1998)

The Committee notes that the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the application of the Convention. The Government indicates in its report of 1999 that there is no legislation or regulation which applies the provisions of the Convention. The Committee recalls *Article 8 of the Convention* which states that subject to the provisions of *Article 6*; each Member which ratifies this Convention agrees to bring the provisions of *Articles 1, 2, 3 and 4* into operation and to take such action as may be necessary to make these provisions effective. It hopes that the Government will take all necessary steps to ensure compliance with the provisions of the Convention and asks for full information on any legislation or regulation concerning medical examination of young seafarers.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Albania, Azerbaijan, Bangladesh, Brazil, Bulgaria, Cameroon, Chile, Costa Rica, Croatia, Cuba, Dominica, Estonia, Finland, France, Guinea, India, Ireland, Italy, Kenya, Malta, Pakistan, Panama, Poland, Romania, Russian Federation, Slovenia, Solomon Islands, Sri Lanka, Trinidad and Tobago, Yemen.*

Convention No. 17: Workmen's Compensation (Accidents), 1925

China

Hong Kong Special Administrative Region
(notification: 1997)

The Committee notes the information supplied by the Government and wishes to draw its attention to the following points.

Article 5 of the Convention. In reply to the Committee's comments, the Government states the reasons which, in its opinion, justify payment in the form of a lump sum of the compensation payable in the case of an accident resulting in permanent incapacity or death. According to the Government, among others the reasons are: the local population prefers receiving lump-sum payments; a lump sum, if properly utilized, provides protection against inflation and produces periodical yields; and periodical payments would involve disproportionately high administrative costs in cases of minor permanent disability.

While noting this information, the Committee recalls that by establishing the principle of compensation in the form of periodical payments in the event of an industrial accident resulting in permanent incapacity or death of the injured person, this provision of the Convention aims to ensure that the beneficiary has the means to subsist throughout the contingency. Although there are often advantages to paying compensation in the form of a lump sum, there is also the risk that it may be squandered by beneficiaries lacking the experience, knowledge or means to reap sufficient income from it. The Committee has nevertheless acknowledged that, where the incapacity is minor, the benefit may be paid in a lump sum. *Article 5* of the Convention also allows payment in the form of a lump sum where the competent authorities provide a guarantee that it will be put to good use. While it is true that inflation can very rapidly cause a steep decline in the purchasing power of the beneficiaries of periodical payments, the Committee wishes to underline that the current international practice (the most up-to-date international standards of the ILO and the social security legislation of most countries) provides for periodical payments to be reviewed from time to time in order to take account of cost-of-living increases.

The Committee therefore hopes that the Government will be able to reconsider the matter in the light of the above comments and that in future it will be able to establish payment of the compensation due in the event of an industrial accident in the form and under the conditions set by *Article 5* of the Convention. It asks the Government to indicate progress made to this end.

Kenya (ratification: 1964)

1. For many years the Committee has been drawing the Government's attention to the need to amend the national legislation (Workmen's Compensation Act, Chapter 136, as amended in 1987) in order to ensure full application of *Articles 5, 9, 10 and 11 of the Convention*. In 1990 the Government sent a Bill referred to as the Work Injury Benefits Insurance Scheme. The Committee noted that although the Bill made substantial improvements to the legislation in force, in particular by introducing a social insurance scheme to replace the system of workers' compensation payable by the employer, it was

nonetheless inconsistent with the Convention on a number of points. In its last observation the Committee pointed out that the latest version of the Bill sent by the Government lacked the necessary amendments to eliminate these inconsistencies.

In its last report the Government states that although the Labour Advisory Board has agreed to all the comments made by the Committee, the Government and the social partners are still having difficulty in drafting the abovementioned Bill. The latter will nonetheless be revised in the framework of the comprehensive labour law revision project which is to start soon with the technical assistance of the ILO and in consultation with the social partners.

The Committee notes this information. It hopes that the Government will take all necessary measures to enable the Bill, to which it has been referring since 1990, to be adopted very soon. The Committee trusts that the final version of the Bill will take account of the following comments.

Article 2, paragraph 2, of the Convention. The Committee draws the Government's attention to section 22(2) of the Bill which, contrary to this provision of the Convention, excludes from compensation for accidents workers ordinarily employed abroad but temporarily employed in Kenya by an employer who carries on business chiefly outside Kenya, subject to international agreements.

Article 5. (a) In its previous report, the Government stated that the final draft of the Bill had been amended to bring section 48 into line with section 56. The Committee hopes that the final version of section 48 will provide for the payment of the compensation in a lump sum only for injured persons whose degree of incapacity does not exceed 20 per cent and for whom the competent authority is satisfied that the lump sum will be properly utilized.

(b) In addition, the Committee recalls that it would be desirable to replace, in section 4(1)(b) and 50(1) of the Bill, the term "accident" by the term "death", so as to take account of cases in which the death of the injured worker occurs after the accident has taken place.

Article 7. The Government stated previously that, although the additional compensation paid in case of incapacity requiring the constant help of another person which is provided for in section 57 of the Bill may be limited to a particular period, the insurance scheme director may extend this compensation depending on the injured worker's condition. The Committee recalls that the additional compensation must be paid for as long as the injured worker's state of health so requires. The Committee accordingly hopes that, in practice, the competent authority will make sure at the end of each period for which the additional compensation has been granted that an injured worker, whose state of health so requires, continues to receive the additional compensation for a further period.

Articles 9 and 10. (a) The Committee recalls that section 9(2) of the Bill, which sets a ceiling for the reimbursement of expenses relating, in particular, to medical, surgical, pharmaceutical and hospital treatment, and to the supply and renewal of artificial limbs and surgical appliances, does not comply with this provision of the Convention which guarantees injured workers the right to such medical aid as is recognized to be necessary in consequence of their accidents.

(b) In addition, the medical aid must be granted irrespective of the duration of the injured worker's incapacity for work and from the day on which the accident occurs. Consequently, in the definition of "accident" given in section 2 of the Bill, the phrase "for more than three consecutive days, excluding the day of the accident and any Sunday, or if Sunday is not a rest day, one rest day" should be deleted. This is all the more necessary as section 36(2) of the Bill already provides for a waiting period of three days for the payment of cash benefits where the duration of the incapacity does not exceed three weeks.

2. The Committee would also be grateful if the Government would provide detailed information on how the Convention is applied in practice including the statistical information requested under *Part V of the report form.*

Mauritius (ratification: 1969)

The Committee notes the comments made by the Mauritius Employers' Federation on the application of the Convention, which were attached to the Government's report.

For many years, the Committee has been drawing the Government's attention to the fact that the Workmen's Compensation Act (Chapter 220), which remains applicable to certain categories of workers excluded from the application of the National Pensions Act, 1976, does not contain any provisions giving effect to *Articles 5, 7, 9, 10 and 11 of the Convention.* In this connection, the Government indicated in its previous report that the merger was envisaged of the Workmen's Compensation Act and the National Pensions Act to ensure the full application of the Convention. The Committee notes from the information provided by the Government in its last report that the merger of the above legislation has still not been completed. It hopes that the Government will not fail to take all the necessary measures to proceed in the very near future to the necessary legislative amendments to ensure that all workers covered by the Convention benefit from the guarantees that this instrument provides in the event of occupational accidents.

Myanmar (ratification: 1956)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

> 1. With reference to the Committee's earlier comments, the Government indicates in its report that the Labour Laws Reviewing Committee of the Ministry of Labour has proposed a new draft of the Workmen's Compensation Act of 1923, in force at present, so as to adapt it to current circumstances. A draft Act has thus been submitted to the Laws Scrutiny Central Body for views and comment. New measures would be taken once the draft Act is returned to the Ministry of Labour together with the comments in question. In addition, the Government indicates that the process of revision of labour legislation must be distinguished from the processes undertaken in 1962 and 1988 during the socialist era. While noting all this information, the Committee is obliged to remind the Government that since the entry into force of this Convention in Myanmar, that is for over 40 years, it has been drawing its attention to the need to bring the legislation (the Workmen's Compensation Act, 1923, and the Social Security Act, 1954) into conformity with the provisions of the Convention. Under these circumstances, the Committee trusts that the draft Act on Workmen's Compensation will be adopted very shortly so as to ensure full application of the Convention, and in particular:

(a) in conformity with *Article 5 of the Convention*, that the compensation payable where permanent incapacity or death results from the injury, shall be paid to the victim or his dependants in the form of periodical payments; provided that it may be wholly or partially in a lump sum, if the competent authority is satisfied that it will be properly utilized;

(b) in conformity with *Article 10*, that no maximum amount shall be imposed for the supply and normal renewal of such artificial limbs and surgical appliances as are recognized to be necessary;

(c) in conformity with *Article 11*, that measures shall be taken for ensuring in all circumstances, in the event of the insolvency of the employer or insurer, the payment of compensation to workmen who suffer personal injury due to industrial accidents or, in case of death, to their dependants.

2. The Committee also notes the statistical information communicated by the Government on the amount of benefits provided and the number of employees protected under the provisions of the Workmen's Compensation Act and the Social Security Act. It requests the Government to provide such information in relation to the total number of employees working in industrial and commercial undertakings.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

New Zealand (ratification: 1938)

The Committee notes the latest report supplied by the Government, the new comments made by the New Zealand Council of Trade Unions (NZCTU) and the New Zealand Employers' Federation (NZEF) and the Government's response to these comments.

Referring to its previous observations, the Committee notes the information communicated by the Government on the Accident Insurance Act, 1998, No. 114, which came into force on 1 July 1999. In this regard, it notes that draft legislation on injury prevention and rehabilitation is currently before Parliament and, once adopted, will replace the aforementioned Accident Insurance Act, 1998. The Government indicates that the provisions of the Bill relating to medical treatment are largely the same as those contained in the Accident Insurance Act. The Committee requests the Government to supply information on any legislation adopted on this subject and to supply a copy. It hopes that before the final adoption of the Bill, the following comments will be taken into account.

Article 9 of the Convention. In its previous comments, the Committee noted that the Accident Insurance Act and its implementing regulations determined the minimum amounts which the insurers must pay for the medical treatment of the victims of employment injuries, while the difference between the actual cost of the treatment and these amounts has to be paid by the injured worker. It recalled that, under *Article 9* of the Convention, the cost of medical aid and such surgical and pharmaceutical aid as is recognized to be necessary for an injured worker shall be defrayed by the employer, or by accident insurance institutions or by sickness or invalidity insurance institutions.

In its latest report, the Government recalls that all workers injured during employment can access public hospital services for which there is no charge but that in view of the triage procedures operated by hospitals and the time a person may have to wait to be seen, certain injured workers may choose instead to access another health provider and must contribute to the care provided. Non-urgent visits to health-care providers who have a contract with the Accident Compensation Corporation (ACC) to not generally require any fee from the injured person. Health-care providers who are not under contract to the ACC will usually incur a partial fee. This treatment may include, for example, general practitioner visits and physiotherapy care. The Government expects that the ACC will place greater emphasis on contracting for treatment with health-care providers in order to avoid occupational accident victims having to contribute to the costs of their treatment. The Government has therefore decided to monitor the situation in this matter over the forthcoming 12 months in order to determine what impact contracting will have on the frequency with which injured workers are required to pay contributions to the cost of their treatment.

Finally, the Government refers to the complaint submitted by the NZCTU to the Regulations Review Committee of Parliament on the matter of settling accident insurance (obligation by the insurer to pay the cost of treatment). The Government indicates that the Regulations Review Committee considered that the details of the amounts the insurer must pay for treatment are a matter which could be set out in regulations. The Regulations Review Committee also stated that it had been informed that the Government did recognize that the treatment costs needed comprehensive review. It hoped that such review would be carried out consistently with the intention expressed to comply with the international obligations stemming from Convention No. 17.

In its comments, the NZCTU considers that the Government's report attempts to minimize the number of cases in which workers injured in occupational accidents are required to meet the cost of their treatment. It stresses again that many workers do not have effective access to public hospitals and very few workers have access to health-care providers which have concluded a contract with the ACC. The NZCTU recalls that in 1993 the Government recognized that national legislation was not in conformity with *Article 9* of the Convention. On several occasions since that date it has given assurances that it would take the necessary measures. Given that legislation has been reviewed several times by Parliament, the trade union considers that the Government was in a position to have remedied the situation.

In reply to these comments, the Government recognizes that development of contracts, which do not require partial payment by the insured persons, between the ACC and the health-care providers is in an early stage. It considered that it was possible to achieve compliance with the Convention through the contract system. It decided to monitor closely progress made with a view to removing co-payments through contracts and to review the situation in August 2002. On that date, the decision not to reimburse more for treatment resulting from occupational injury than for treatment for illness or accidents of common origin will be re-examined.

The Committee notes all this information. It notes that the need to take measures to give effect to *Article 9* of the Convention is recognized by the Regulations Review Committee of Parliament. The Government has made an undertaking to this end with the Review Committee and is now closely following the situation which will be re-examined in August 2002. The Committee notes, nevertheless, that the Government has not taken the opportunity of the adoption of new legislation in 1998 or the preparation of a new bill in this field to take appropriate measures with the aim of abolishing any financial participation by the victims of occupational accidents in the cost of the care provided for them. The Committee finds this all the more regrettable since the NZCTU emphasizes once again the number of people concerned in paying part of the cost of benefits. In this regard, the Government recognizes that the system of contract between the ACC and the health-care providers is at an experimental stage and that time is required before extending the scope of such contracts. In these circumstances, the Committee trusts that in August 2002 the situation will be examined and assessed in the light of the obligations under *Article 9* which provides that injured workmen shall be entitled to medical aid and to such surgical and pharmaceutical aid as is recognized to be necessary in consequence of accidents and that the cost of such aid shall be defrayed either by the employer, by accident insurance institutions, or by sickness or invalidity insurance institutions. The Committee hopes that the Government will not fail to take all the necessary measures to ensure improved application of this provision of the Convention and that it will indicate in its next report all progress made in this regard.

Saint Lucia (ratification: 1980)

The Committee notes with regret that once again the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> *Article 7 of the Convention.* The Committee notes that Regulations No. 37 of 1984 do not, as set out in this provision of the Convention, provide for the provision of additional compensation to victims of accidents who suffer incapacity and require the constant help of another person. The Committee therefore hopes that the Government will take the necessary steps to give effect to this provision of the Convention.
>
> *Articles 9 and 10.* In its previous comments, the Committee drew the Government's attention to the fact that, contrary to this provision of the Convention, section 52(1) of the National Insurance Act No. 10 of 1978 limits to a prescribed amount the right to medical assistance and the provision of artificial limbs. In view of the fact that the Regulations issued under the Act do not appear to contain provisions in this connection, the Committee hopes that the Government will take the necessary steps to secure the application of these Articles of the Convention, which do not fix any maximum amount as regards such benefits.
>
> The Committee also requests the Government to indicate whether the medical treatment set out under section 52(1) of Act No. 10 of 1978 also covers pharmaceutical assistance and the supply, repair and renewal of artificial limbs, in accordance with these provisions of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Sierra Leone (ratification: 1961)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> *Article 5 of the Convention.* For many years the Committee has been drawing the Government's attention to the fact that sections 6, 7 and 8 of the Workmen's Compensation Ordinance 1954, as amended in 1969, provide for periodic payments for injury benefit, which, although equivalent to the full amount of wages received prior to the accident, are paid only for a limited number of months, whereas under *Article 5* of the Convention, payment shall be made throughout the contingency.

> The Government states in its report that the final draft of the New Labour Legislation, which will provide for periodic payment of benefit in cases of work injury throughout the period of disability, is expected to be completed shortly. The Committee notes this information. It hopes that the process of enactment will be completed soon, and that the Government will supply a copy of the legislation once it is enacted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

United Republic of Tanzania (ratification: 1962)

The Committee notes with regret that for the third consecutive year the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> *Article 5 of the Convention.* In previous observations, the Committee had noted that Chapter 263 of the Workmen's Compensation Ordinance made provision for payment in the form of a lump sum in the event of death or permanent incapacity, whereas *Article 5* requires that compensation be paid in the form of periodic payment. Under this Article of the Convention, lump sums may be paid only with adequate supervision from the appropriate authorities. In reply to these observations, the Government had expressed its intent, since 1988, to adopt "Consolidated Social Security Legislation". In its last report, the Government explains that the matter is still being followed up by the National Provident Fund and experts from the International Social Security Association, in collaboration with the International Labour Office. The Committee notes this information. It again urges the Government to take all necessary measures to give full effect to the requirements of the Convention in the very near future.
>
> The Committee requests the Government to supply information on the application of the Convention, including any relevant statistics, in accordance with *Part V of the report form.*

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Uganda (ratification: 1963)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 5 of the Convention.* The Committee notes the information provided by the Government in its last report that the Bill to revise the legislation on workers' compensation has received its first reading in Parliament. It trusts that the Government will take all the necessary measures for the adoption of this Bill so as to give full effect to *Article 5* of the Convention, on which the Committee has been commenting since 1966. The Committee recalls that, under this provision of the Convention, the compensation payable in the event of accidents which result in permanent incapacity or death shall be paid in the form of periodical payments throughout the contingency, although these payments may be paid in the form of a lump sum if the competent authority is satisfied that it will be properly utilized. It requests the Government to provide a copy of the new Act as soon as it has been adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

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In addition, requests regarding certain points are being addressed directly to the following States: *Burkina Faso, Burundi, Cape Verde, Central African Republic, China* (Hong Kong Special Administrative Region), *Czech Republic, Guinea-Bissau, Hungary, Latvia, Mauritania, New Zealand, Sao Tome and Principe, United Republic of Tanzania* (Zanzibar).

Convention No. 18: Workmen's Compensation (Occupational Diseases), 1925

Burkina Faso (ratification: 1960)

The Committee notes the information provided by the Government in its last report. It notes in particular the adoption of Decree No. 96-355/ PRES/PM/MS/METSS of 11 October 1996 issuing the schedule of occupational diseases. In this respect, it wishes to draw the Government's attention to, and receive additional information on, the following points.

1. The Committee notes with interest that, in accordance with section 1 of the above Decree, diseases caused by lead and its compounds and by mercury and its compounds are considered to be occupational diseases (items Nos. 1 and 31 of this section, respectively). The Committee notes that item No. 13 of this section refers to anthrax fever. In this respect, it had already drawn the Government's attention, when the latter provided a copy of the draft Decree issuing the schedule of occupational diseases, to the fact that this item did not give effect to the Convention in so far as anthrax fever is only a symptom of *anthrax infection*, to which the Convention refers. The Committee hopes that the Government will be able to re-examine the question and that it will not fail to take all the necessary measures to secure full compliance with the Convention on this point.

2. The Committee notes that under the terms of section 2 of the above Decree, the diseases caused by the poisoning referred to in section 1, and the indicative or limitative schedule of the principal types of work liable to cause these diseases or infections are enumerated in schedules annexed to the Decree. It notes in this respect that the Government does not refer in its report to the definitive adoption of the draft schedules of which it had previously provided copies. The Committee would be grateful if the Government would indicate whether these schedules were adopted at the same time as the Decree and, if so, to provide a copy of them. The Committee nevertheless draws the Government's attention to the fact that the above schedules were not in full conformity with the Convention. Indeed, schedules Nos. 1 and 31 provide a *limitative* enumeration of certain pathological manifestations as diseases due respectively to infection caused by lead or mercury, whereas the Convention refers *in general terms* to all poisoning by lead and mercury, their alloys, amalgams and compounds and their sequelae. The Committee requests the Government to provide information on any progress achieved in this respect.

Central African Republic (ratification: 1964)

The Committee notes that the Government's report contains no reply to its previous comments. It must therefore repeat its previous observation which read as follows:

> 1. Since the Convention came into force for the Central African Republic, the Committee has been indicating that the schedule of occupational diseases annexed to Ordinance No. 59/60 of 20 April 1959 does not give effect to the Convention. It has therefore drawn the Government's attention to the need to amend the above schedule, firstly, by eliminating the limitative nature of the list of *pathological manifestations* which may be caused by lead and mercury poisoning and, secondly, by adding, among the kinds of work which may lead to anthrax infection, the operations of "loading and unloading or transport of merchandise" in general, in accordance with *Article 2 of the Convention*. The Committee recalls in this respect that already in its 1980 report the Government referred to the adoption of a draft decree prepared following a direct contacts mission between a representative of the Director-General and the competent national services with a view to bringing the legislation into conformity with the Convention. The Committee notes with regret that the latest information provided by the Government in 1995 and 1998 does not indicate that any progress has been made in the adoption of the above draft decree. In these conditions, the Committee is bound once again to urge the Government to take the necessary measures to amend the schedule of occupational diseases annexed to Ordinance No. 59/60 so as to give effect to this Convention, which came into force for the Central African Republic nearly 40 years ago.
>
> 2. The Committee hopes that in future reports the Government will provide general information on the manner in which the Convention is applied in practice, as well as the statistical information requested under *Part V of the report form*.

Guinea-Bissau (ratification: 1977)

In reply to the Committee's previous comments, the Government states in its last report that the National Social Insurance Institute, which has competence for workers' compensation for occupational accidents and diseases, is having difficulty in identifying occupational diseases. The situation therefore remains unchanged in that, having been unable to determine occupational diseases, the Ministry of Public Health has not been able to adopt a list of such diseases.

The Committee takes note of this information. It can only note once again with regret the lack of progress in amending the national legislation to include a list of occupational diseases. In view of the importance of this matter, the Committee again expresses the hope that the Government will take all necessary steps in the very near future to ensure the adoption of a list of occupational diseases including at least those set out in the Schedule to *Article 2 of the Convention*. The diseases in question can then be recognized as occupational where contracted in the conditions prescribed in the Schedule. The Committee reminds the Government that it may seek technical assistance from the Office.

Sao Tome and Principe (ratification: 1982)

The Committee notes with regret that for the third consecutive year the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

With reference to its previous comments, the Committee notes that no progress has been made to supplement existing legislation in order to include a detailed list of occupational diseases and related work, in accordance with *Article 2 of the Convention*. The Government states in its report, furthermore, that the Social Security Institute is awaiting publication by the Ministry of Health of lists of occupational diseases in order to allocate compensation. In these circumstances and in view of the importance of the matter, the Committee can only stress once again to the Government that the necessary measures should be taken in the very near future to adopt a list of occupational diseases including at least those set forth in the Schedule appended to *Article 2* of the Convention – diseases which shall be recognized as such in the event that they are contracted in the circumstances set out in the Schedule.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, a request regarding certain points is being addressed directly to *Latvia*.

Convention No. 19: Equality of Treatment (Accident Compensation), 1925

Central African Republic (ratification: 1964)

The Committee recalls that under section 27 of Act No. 65-66 of 24 June 1965 establishing the employment injury compensation and prevention scheme, foreign workers injured in an occupational accident and their dependants who cease to reside in the national territory continue to receive benefit in the same conditions. The Government stated in this connection that the dependants of an injured person who is a national of a State bound by this Convention, who did not reside in the Central African Republic at the time of the latter's death and continue not to reside there, were also entitled to survivors' benefit if it was proved that they were dependants of the worker concerned at the time of his death. The Committee asked the Government to introduce an express provision to that effect in its legislation to reflect this practice.

In its last reports the Government indicates that the Committee's comments will be taken into account in the course of the revision of the laws and regulations applicable to the various branches of social security. The Department of Labour has sent these comments to the General Directorate of the Central African Social Security Office. The Committee notes this information. It recalls that the Government indicated as long ago as 1982 that it had submitted a draft ordinance to the Council of Ministers to rectify the situation. Furthermore, in 1993, during the discussion in the Conference Committee on the application of Convention No. 118 by the Central African Republic, the Government stated that draft texts had been prepared for the necessary adjustments to be made to the legislation. In these circumstances, the Committee trusts that the Government will very shortly take all the necessary steps to complete the provisions of section 27 of the Workers' Compensation Act to ensure that the dependants (survivors) of a national of a State bound by the Convention who were not resident in the Central African Republic at the time of the latter's decease and who continue not to reside there, are paid the survivors' benefit provided for under the Act. The Committee reminds the Government that, should it so wish, it may seek technical assistance from the Office.

Guinea-Bissau (ratification: 1977)

The Committee notes the information supplied by the Government in its last two reports, received in November 2000 and September 2001, respectively. It wishes to draw the Government's attention to the following points.

Article 1, paragraph 1, of the Convention. In its previous comments, the Committee drew the Government's attention to section 3(1) of Decree No. 4/80 of 1981, concerning compulsory insurance against industrial accidents and occupational diseases. It pointed out that the abovementioned provision is inconsistent with the Convention in that it lays down reciprocity as a requirement for equal treatment between foreign workers employed in Guinea-Bissau and Guinean workers. In response, the Government states that the matter is still receiving its attention but that, as yet, no text has been adopted regarding the reciprocity required by section 3(1) of the abovementioned Decree. The Committee recalls in this connection that the Convention lays down a system of *automatic reciprocity* between member States which have ratified it. In these circumstances, it hopes that the Government will very shortly take all necessary steps to bring the abovementioned provision of its legislation into line with *Article 1, paragraph 1,* of the Convention by ensuring that all nationals of States which have ratified this Convention are automatically afforded the same treatment as nationals of Guinea-Bissau with regard to accident compensation.

Article 1, paragraph 2. The Committee asks the Government to provide information on any compensation paid for injured persons or their dependants residing outside the country.

Article 2. In its previous comments the Committee noted that section 3(3) of Decree No. 4/80 which excludes from the scope of the Decree foreign workers temporarily employed in Guinea-Bissau by foreign undertakings or international bodies is not fully consistent with this provision of the Convention. *Article 2* of the Convention allows the exclusion of workers employed temporarily or intermittently in the territory of one Member on behalf of an undertaking located in the territory of another Member only under a special agreement concluded between the Members concerned. The Government indicated that, in practice, such workers have labour contracts under which they are protected by the legislation of their country of origin or the country of the undertaking or international body. The Government further stated that a bill had been drafted to regulate the conditions of foreign workers employed temporarily in Guinea-Bissau on behalf of a foreign undertaking. The Committee notes that the Government's last report provides no information on the bill – to which the Government has been referring since 1987. It asks the Government to keep it informed of progress made in ensuring better application of this provision of the Convention.

Iraq (ratification: 1940)

The Committee notes with regret that in its last report the Government merely reproduces the information it sent in its reports of 1998, 1997 and 1994. Consequently, the Committee cannot but repeat its previous observation, which read as follows:

> In reply to its previous comments the Government refers mainly to certain provisions of the Workers' Pension and Social Security Law, No. 39 of 1971, without supplying the detailed information on the points raised by the Committee, which dealt in particular with the follow-up of the conclusions and recommendations, approved by the Governing Body at

its 250th (May-June 1991) Session, of the Committee set up to consider the representation made by the Federation of Egyptian Trade Unions under article 24 of the ILO Constitution alleging non-observance by Iraq of a number of Conventions. In this situation the Committee hopes that the Government will not fail to supply a report for examination at its next session which will contain detailed information on the following points:

1. (a) The Government is requested to indicate any other provisions (apart from Decision No. 603 of 1987) or contractual conditions which may affect the right of foreign workers engaged in state enterprises, such as arms factories, to receive compensation for industrial accidents both in Iraq and in the country of their new residence.

(b) As regards the situation of temporary workers, to whom Decision No. 603 applies, please indicate which provisions of the legislation ensure the right of such workers to receive compensation in the case of industrial accidents, particularly in cases where they terminate their service before the expiration of the fixed period of employment or the completion of the work for which they were engaged (see also under point 2 below).

2. (a) In its previous comments, the Committee observed that under section 38(b)(ii) of Law No. 39 of 1971, which provides for the payment of compensation abroad to an Arab citizen if he has "returned to *his* country at the *end* of his insured period of service", Arab workers who leave Iraq *before* their contract period has expired or who settle in a country *other* than their country of origin, may be refused payment of compensation due to them. On the other hand, under the same provisions no such restrictions are applied in respect of Iraqi workers. The Committee recalls in this respect that in its previous report the Government stated that Instruction No. 2 of 1978 regarding payment of social security pensions to insured persons leaving Iraq was being studied by the Government with a view to its revision. The Committee, therefore, once again expresses the hope that the Government will not fail to indicate the legislative measures taken or contemplated to ensure equality of treatment between nationals of Iraq and Arab workers in respect of compensation for industrial accidents, particularly in the case of their residence abroad, including the modifications to Instruction No. 2 of 1978. Please supply a copy of the text of such legislative measures, when adopted.

(b) As regards nationals of States bound by the Convention other than Arab countries, the Committee recalls that under section 38(b)(iii) of Law No. 39 of 1971, no payment of benefits is made outside Iraq except under reciprocity agreements or international labour Conventions and subject to the necessary authorization under Instruction No. 2 of 1978. Please indicate measures taken or contemplated at the level of the Iraqi Institute of Social Security to ensure, without any restrictions, that in all cases compensation benefits are paid to all workers who are nationals of a country bound by the Convention, in their new country of residence.

3. The Committee notes, from the information supplied by the Government representative in the discussion in the Conference Committee in 1994 on the application of Convention No. 118 by Iraq, that the Government intends to pay benefits due to foreign workers, including Egyptian workers, who left Iraq in 1990, once the economic embargo imposed on Iraq is lifted, and after the release of Iraq's frozen assets in foreign banks and the improvement of the national economic situation. The Committee would like the Government to continue to provide information on any measures taken or contemplated with a view to resuming payment of compensation for industrial accidents to beneficiaries residing abroad, accompanied by the relevant statistical data. Please also indicate whether workers who left Iraq at the time of the war and who had no opportunity to present their requests for payment of the compensation due to them, may do so from their new place of residence abroad and, if so, in what way.

[The Government is asked to report in detail in 2002.]

Malaysia

Peninsular Malaysia (ratification: 1957)

The Committee notes that the Government's report has not been received and that the Government's last report contained no reply to its previous comments. It must therefore repeat the observation it made in 1998 which read as follows:

> The Committee notes the Government's report and the discussion which took place at the 1998 Conference Committee on Malaysia's application of Article 6, paragraph 1(b), of the Migration for Employment Convention (Revised), 1949 (No. 97), raising similar problems to those considered under this Convention.
>
> *Article 1, paragraph 1, of the Convention.* In its previous comment, the Committee drew the Government's attention to the fact that the transfer of foreign workers, working in the private sector, from the Employee's Social Security Scheme (ESS) to the Workmen's Compensation Scheme was not in conformity with this provision of the Convention. A review of the two schemes had in fact shown that the level of benefits in case of industrial accident provided under the ESS was substantially higher than that provided under the Workmen's Compensation Scheme. In this respect the Committee notes with interest that the Government has now reported that it is envisaging reviewing the present situation regarding the coverage of foreign workers under the ESS and that it is proposing amendments to the Social Security Act of 1969 in this regard. The Committee hopes that in its next report the Government will be able to indicate the progress made in amending the Social Security Act in order to ensure that foreign workers will receive the same workmen's compensation benefits as those paid to nationals in conformity with this provision of the Convention. Please supply copies of the proposals made or the amended law, if adopted, in the next report.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Sarawak (ratification: 1964)

The Committee notes with regret that for the second time the Government's report contains no reply to its previous comments. It must therefore repeat the observation it made in 1998, which read as follows:

> The Committee notes the Government's report and the discussion which took place at the 1998 Conference Committee on the application of Article 6, paragraph 1(b), of the Migration for Employment Convention (Revised), 1949 (No. 97) by Malaysia (Sabah), raising similar problems to those considered under this Convention.
>
> *Article 1, paragraph 1, of the Convention.* In its previous comment, the Committee drew the Government's attention to the fact that the transfer of foreign workers, working in the private sector, from the Employee's Social Security Scheme (ESS) to the Workmen's Compensation Scheme was not in conformity with this provision of the Convention. A review of the two schemes had in fact shown that the level of benefits in case of industrial accident provided under the ESS was substantially higher than that provided under the Workmen's Compensation Scheme. In this respect the Committee notes with interest that the Government has now reported that it is envisaging reviewing the present situation regarding the coverage of foreign workers under the ESS and that it is proposing amendments to the Social Security Act of 1969 in this regard. The Committee hopes that in its next report the Government will be able to indicate the progress made in amending the Social Security Act in order to ensure that foreign workers will receive the same workmen's compensation benefits as those paid to nationals in conformity with this provision of the

Convention. Please supply copies of the proposals made or the amended law, if adopted, in the next report.

The Committee hopes that the Government will make every effort to take the necessary steps in the near future.

Sao Tome and Principe (ratification: 1982)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In its previous comments, the Committee drew the Government's attention to the fact that section 12 of Act No. 1/90 on social security, which provides that the general system covers foreign workers working on the national territory only in so far as a Convention or an agreement concluded with the country of origin of the person concerned so provides, was contrary to *Article 1, paragraph 1, of the Convention*. In fact, the Convention makes it incumbent on any State which has ratified the instrument to grant to the nationals of any other State which has ratified the Convention the same treatment in respect of compensation for industrial accidents as it grants to its own nationals, as a matter of law and regardless of the conclusion of reciprocal agreements. In its report, the Government indicates that under existing provisions workers from African Portuguese-speaking countries, and specifically Cape Verde, Angola and Mozambique, who were working in Sao Tome before independence are covered by the social security system. It adds that, in accordance with the Committee's comments, it will make amendments to Act No. 1/90 with technical assistance from the Office. The Committee notes this information. It hopes that the Government will be able to take the necessary measures to amend the provisions of section 12 of Act No. 1/90, and thus guarantee to all foreign workers who are nationals of a country that has ratified the Convention the benefit of legislation concerning compensation for occupational accidents on the same conditions as for national workers. The Committee hopes that the Government's next report will contain information on progress made in this respect.

Syrian Arab Republic (ratification: 1960)

Article 1, paragraph 2, of the Convention. In reply to the Committee's previous comments, the Government refers once again to the draft law prepared by the Ministry of Social Affairs and Labour in cooperation with the Public Authority for Social Insurance which amends section 94 of the Social Insurance Code. Pursuant to this draft, the beneficiaries of periodical payments or their dependants who leave the territory of the Syrian Arab Republic may request the transfer of their periodical payments to their new country of residence, and the cost of transfer would be the responsibility of the beneficiaries. They may also request the substitution of the pension by a one-time monetary compensation in accordance with the table set out in section 61 of the Social Insurance Code. The Minister of Social Affairs and Labour will issue the necessary instructions and decisions for the application of these provisions after consultation with the executive board of the Public Authority for Social Insurance.

The Committee notes this information but emphasizes nevertheless that the Government has been referring since 1981 to the adoption of a draft law amending social security legislation and taking into account the Committee's comments. In these circumstances, the Committee once again strongly urges the Government to take all necessary measures with a view to adopting the draft law to which it refers in its latest report. It trusts that section 94 of the Social Insurance Code will thus be amended so as to ensure payment of accident compensation abroad to the nationals of any State which has ratified the Convention, whatever be their new place of residence and irrespective of the conclusion of reciprocal agreements. The Committee requests the Government to supply a copy of the draft law once it has been promulgated along with any text adopted for its application.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Angola, Cape Verde, Comoros, Czech Republic, Djibouti, Dominican Republic, Islamic Republic of Iran, Kenya, Mexico, Nigeria, Saint Lucia, Sao Tome and Principle, Senegal, Slovakia, Slovenia, Swaziland, Tunisia, Yemen.*

Information supplied by *Croatia, Cuba, India* and *Nicaragua* in answer to a direct request has been noted by the Committee.

Convention No. 20: Night Work (Bakeries), 1925

Bolivia (ratification: 1973)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the Government's short response to its observation of 1996 and regrets that the draft General Labour Law, prepared with the technical assistance of the ILO over a period of years, has not been retained by the Government. Consequently, the Committee regrets that no progress has been made on bringing certain points of the current labour legislation into conformity with the provisions of the Convention.
>
> The Committee is bound to recall that it has commented over very many years on the non-conformity of section 60 of Regulation No. 244 of 23 August 1943, with the provisions laid down in *Article 2 of the Convention* which define the period of night, during which work is prohibited, as a period of at least seven consecutive hours, which shall include the interval between 11 p.m. and 5 a.m. or, in certain justified instances, between 10 p.m. and 4 a.m. The Government should, therefore, take adequate measures to ensure that the period when work is prohibited includes not only that provided for in section 60 of the above Regulation, but also the hour following this period to ensure a period of at least seven consecutive hours.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Chile (ratification: 1933)

Further to its previous comments, the Committee takes note of the information supplied by the Government in its last report.

The Committee notes the Government's acknowledgement that there is no specific legislation on night work since old laws on this matter were abrogated by the regime in power between 1973 and 1990. The Government specifies, however, that, despite the absence of relevant legislation, interested parties may conclude agreements regulating the period of night work. The Committee also notes the information supplied by the Government concerning the principles of equality and non-discrimination which should be respected in applying the provisions of the Convention. The Committee notes that, following the recommendations of the ILO Governing Body, the Government submitted to the tripartite committee set up under Convention No. 144 a proposal for the denunciation of Convention No. 20 and the possible ratification of the Night Work Convention, 1990 (No. 171). According to the Government's indications, the Government and Employers' representatives were in favour of the proposal to denounce Convention No. 20, whereas the Workers' representatives did not express any views since they wished the trade unions concerned to adopt first a decision in this respect. The tripartite committee has finally agreed to defer to a later date its decision as to the possible denunciation of this Convention.

The Committee therefore requests the Government to inform the International Labour Office of its decision regarding the denunciation of Convention No. 20 and the possible ratification of Convention No. 171.

Convention No. 22: Seamen's Articles of Agreement, 1926

France (ratification: 1928)

The Committee notes with interest the amendments made to the Maritime Labour Code by the Acts of 26 February 1996 and 18 November 1997 amending, inter alia, section 101 which now gives the seaman the right to request termination of the articles of agreement for failure by the shipowner to fulfil his obligations as well as the possibility for the authority responsible for maritime labour inspection to authorize the seaman to disembark immediately on serious grounds as required by *Article 12 of the Convention.*

Article 9, paragraph 1. The Committee notes, nevertheless, that section 101 of the Code does not provide that the seaman shall have the right to terminate an agreement for an indefinite period in any port where the vessel loads or unloads, provided that the notice specified in the agreement shall have been given, which shall not be less than 24 hours, as provided in this Article of the Convention. The Committee requests the Government to indicate the measures it intends to take to bring its legislation into full conformity with the Convention on this matter.

The Committee is addressing a request directly to the Government on other points.

Germany (ratification: 1930)

The Committee notes with interest the information provided by the Government on sections 11-22, 24 of the Seamen's Act, which apply *Articles 9 to 13 of the Convention* to all crew members of ISR ships. It further notes with interest the amendments to sections 63, 65 and 68 of the Act and the standardization of the procedures for notice of termination in 1993 which are the same for all crew members.

Liberia (ratification: 1977)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the Government's statement in its report that the Committee's comments have been referred to the Bureau of Maritime Affairs with instructions that the

commission should review the provisions of the maritime laws and regulations with the aim of having them conform with the provisions of the Convention. The Committee hopes that the necessary measures will be taken to apply the Convention in law and in practice and that the Government will provide full particulars on any progress achieved, taking into consideration the Committee's comments since 1995 on *Article 3, paragraph 4, Article 9, paragraph 2, Article 13 and Article 14, paragraph 2, of the Convention.*

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Norway (ratification: 1940)

The Committee notes the Government's report.

The discrepancies between the provisions of Act No. 37 of 1985 and the requirements of *Articles 3, 4, 9, 11, 12 and 15 of the Convention* with regard to seafarers who are neither residents in Norway nor Norwegian nationals, hired by a foreign employer and serve passengers on cruise ships have been brought to the attention of the Government for the first time in an observation of 1987. Even though the Committee has repeatedly pointed to the overriding significance of *Article 2(b)* of the Convention, which states that the term "seaman" includes every person employed or engaged in any capacity on board any vessel and entered on the ship's articles, the Government does not find it opportune to amend the provisions in section 1 of the Seamen's Act which had been amended by Act No. 37 of 1985. The Government states that the employer of this personnel group could just as well be someone supplying manpower to a hotel ashore, and it could be pure chance whether an employee working for such an employer is working ashore or at sea and, therefore, this personnel group cannot be regarded as seafarers. It indicates in its last report that it does not intend to fully include seafarers of the categories specified above in the scope of the Seamen's Act. The Committee recalls that the Convention does not refer to factors such as, type of ship, nationality of the employer, nationality of the persons employed or nature of their work. It requests the Government to indicate the measures which it will take to ensure full compliance with the provisions of the Convention.

[The Government is asked to report in detail in 2002.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Bahamas, Belize, Brazil, Bulgaria, Cuba, Djibouti, Egypt, France, Ghana, India, Luxembourg, Malta, Mauritania, Morocco, Myanmar, Panama, Singapore.*

Information supplied by the *United Kingdom* and *Uruguay* in answer to a direct request has been noted by the Committee.

Convention No. 23: Repatriation of Seamen, 1926

Ireland (ratification: 1930)

Since 1964 the Committee has regularly drawn the Government's attention to the necessity of ensuring measures for the repatriation of seamen who are landed in a

Commonwealth country, or foreign seamen embarked in another than their own country and landed in a foreign port.

Since then the Government has been indicating that revision of the Merchant Shipping Act, 1906 was imminent and that it would introduce amending legislation relating to repatriation, which it hoped to have enacted by the end of 1996.

In the Government's report received on 20 November 2000, it informed the Committee that no amendments have been made to the Merchant Shipping Act, 1906, and the priority is being given to maritime safety-related legislation, adding that the Attorney-General considers that, by virtue of protection afforded under the Irish Constitution (not specified), there is no breach of the Convention. The Committee must reiterate its role as the supervisory body with regard to the application of ratified Conventions by member States. As such, it renews its request to the Government to take the measures necessary to provide the protection required under the Convention and to report on steps taken.

[The Government is asked to report in detail in 2003.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Bulgaria, China, Cyprus, Djibouti, Egypt, Russian Federation, Ukraine.*

Convention No. 24: Sickness Insurance (Industry), 1927

Chile (ratification: 1931)

In reply to the Committee's previous comments, the Government indicates that the obligation to subscribe to the social security scheme is not of a contractual nature – it does not stem from the wish of the parties – but is based in law. Since the adoption of Legislative Decree No. 3501 of 1980, all social insurance payments, except those of the occupational injury compensation scheme, are paid by the worker. Previously, a large percentage of these contributions was paid by the employer and/or the State. Gross salaries have been increased in order to compensate for the worker's obligation to pay contributions in their entirety. The Government therefore considers that by increasing wages the employers are continuing to finance contributions and the worker's level of income is thus not affected.

The Committee notes this information. It notes with regret that the situation remains unchanged. The Committee has already indicated that the salary increase to which the Government refers could not be considered as giving effect to *Article 7, paragraph 1, of the Convention* which stipulates that employers shall share directly in providing the financial resources of the sickness insurance system. The Committee hopes that the Government will be able to re-examine this question and asks it to communicate in its next report information on any progress made in this regard.

Haiti (ratification: 1955)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> Further to previous comments, the Government states in its report that an Office for Work Injury, Sickness and Maternity (OFATMA) had been created to establish a social security regime, but that its success to date has been limited due to socio-economic problems in the country. However, the Government is in the process of taking measures to improve the operation of the OFATMA. The Committee notes this information. It hopes that the Government's next report will contain information on the progress made toward the adoption of a sickness insurance scheme which will conform to the requirements of the Convention. The Committee suggests that the Government request the International Labour Office to resume technical assistance.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Peru (ratification: 1945)

With reference to its previous comments, the Committee notes the information supplied by the Government in its report. In particular, it notes the information on the application of *Article 7, paragraph 2, of the Convention.*

Article 2 of the Convention. In its previous comments, the Committee asked the Government to indicate whether in practice all the workers covered by the Convention and, in particular, apprentices, are affiliated to the social security scheme provided in Act No. 26790 of 1997. It also requested information on the geographical coverage of the new health-care system, with an indication of the regions which are not yet covered. In its report, the Government indicates that all employed workers, including apprentices, are covered by the Act in question and by Legislative Decree No. 20151. The Government also indicates that this new health insurance scheme is nationwide in scope but it does not supply statistics on either the real cover or the geographical cover of the new health scheme. The Committee observes however that, according to the report of the Peruvian Social Security Institute (IPSS) for 1999, the population insured numbers 6,574,534 persons, of whom 47.9 per cent are in Lima and Callao and the remaining 52.1 per cent from towns in the interior of the country. With regard to geographical cover, the Government indicates in its report on the Social Security (Minimum Standards) Convention, 1952 (No. 102), that the EPS (health-care providers) have regional scope and that there is no regulatory limitation or restriction on any region in the country; hence, 20 departments in the country are beneficiaries under this system; geographical cover of the new health scheme ESSALUD comprises care centres consisting of 112 hospitals, 42 medical centres, 193 health stations and 31 outpatient clinics. The Committee notes this information. It asks the Government to provide in its next report an example of the latest IPSS report, as well as the monthly reports of affiliation to the EPS. It also asks it to supply disaggregated statistical information on the number of persons who belong to the workforce in Peru and of persons who are insured and covered either by ESSALUD or by the EPS. In regard to geographical cover, the Committee requests that the Government specify the regions which are not yet covered, the zones where establishments providing care are located, along with information on the insured persons and beneficiaries given treatment in these establishments.

Article 6, paragraph 1. In its previous comments, the Committee asked the Government to indicate the manner in which it gave effect to this provision of the Convention under which health-care insurance must be administered by self-governing institutions, under the administrative and financial supervision of the public authorities and shall not be carried out with a view to profit. Institutions funded by private initiative must be recognized by the public authorities. The Government's report refers, inter alia, to section 13 of the regulations of Act No. 26790 (DS No. 009-97-SA) under which the sole purpose of the health-care providers is to provide health-care services with their own or with third parties' infrastructure. The Committee notes this information. It requests that the Government supply copies of the decisions authorizing operation by which the EPS obtain recognition, of EPS superintendence reports and examples of agreements concluded with EPS.

Article 6, paragraph 2. In reply to previous comments of the Committee regarding participation of insured persons in the management of the health-care scheme, in particular as regards the EPS and health-care services provided by the employer, the Government indicates that insured persons participate in the management of the health scheme through representation of the most representative organizations of the group of the workers in the public, private and pensioners' labour system. The Committee notes this information. It observes, however, that the legislative provisions which the Government cites, under which participation of insured persons is provided, relate to the Social Security Health System (ESSALUD). Finally, it requests that the Government indicate the legislative provisions under which participation of insured persons in EPS and in health services provided by employers is envisaged.

[The Government is asked to report in detail in 2002.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Austria, Croatia, Hungary, Latvia, Lithuania, Nicaragua, Romania, Slovenia, United Kingdom.*

Convention No. 25: Sickness Insurance (Agriculture), 1927

Chile (ratification: 1931)

The Committee refers to the observation that it has made on the application of Convention No. 24.

Haiti (ratification: 1955)

The Committee notes with regret that the Government's report has not been received. It must therefore once again refer to the comments made under Convention No. 24.

Peru (ratification: 1960)

The Committee refers to its observation on the application of Convention No. 24.

[The Government is asked to report in detail in 2002.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Croatia, Nicaragua, Slovenia.*

Convention No. 26: Minimum Wage-Fixing Machinery, 1928

Angola (ratification: 1976)

The Committee notes the information provided in the Government's report, in particular the adoption of the new General Labour Law, Act No. 2/00 of 11 February 2000.

Article 3, paragraph 2(2), of the Convention. The Committee notes that under section 168(1), (2) of the new General Labour Law, the national minimum wage is fixed periodically by decree of the Council of Ministers based upon a proposal of the Ministers of Labour and Finance and after consultation with the most representative organizations of workers and employers. The Committee also notes the Government's statement that negotiations are currently under way between the social partners in connection with the national minimum wage. Recalling that as it has indicated in the 1992 General Survey on minimum wages, consultation has a different connotation from mere "information" and from "co-determination", the Committee urges the Government to take all necessary measures to effectively put into practice, if possible within an institutionalized framework, the consultation procedure referred to in section 168(2) of the General Labour Law. Moreover, the Committee requests the Government to adopt such necessary legislative or regulatory provisions to guarantee the participation in equal number and equal terms of the employers' and workers' representatives in the operation of the minimum wage-fixing machinery, as set forth under this Article of the Convention.

Articles 3, paragraph 2(3), and 4. In the absence of reply on this point, the Committee is bound to reiterate its request for a copy of the latest decree fixing the national minimum wage, and detailed information on the system of supervision and sanctions which ensures the observance of such minimum wage.

Article 5 of the Convention and Part V of the report form. The Committee asks the Government to provide detailed information on the practical application of the Convention, including any available statistics on the number and different categories of workers subject to laws and regulations on minimum wage rates, inspection results indicating the number and nature of infringements observed and penalties imposed and any other information bearing on the practical functioning of the minimum wage-fixing machinery in accordance with the requirements of the Convention.

Chad (ratification: 1960)

Further to its previous comments, the Committee notes the information supplied by the Government in its report. It also notes the discussion that took place at the 87th Session of the International Labour Conference (June 1999).

Article 3 of the Convention. The Committee recalls that the Government shelved its plan to increase minimum wages as part of the structural adjustment plan imposed by the International Monetary Fund and the World Bank. Recalling the principles set forth in its General Survey of 1992 on minimum wages, the Committee requested the Government to report on progress in updating minimum wage rates. The Government was also asked to provide information on measures adopted to ensure the participation of the representatives of employers' and workers' organizations in wage-fixing decisions. It referred in particular to the case of the Trade Union Confederation of Chad (CST). The Government indicated during the discussion at the Conference that, in 1995, despite the structural adjustment measures imposed and the original decision to freeze minimum wages, it did fix and enforce the guaranteed inter-occupational minimum wage (SMIG) which had been established previously in order to preserve social peace. It also stated that the SMIG was discussed by the Central Committee for Work and Social Security.

With regard to the CST's participation in the abovementioned negotiations, the Government recalled that at the time of the negotiations the CST had not been created. However, the Government later included the CST in the draft decree appointing the new members of the Central Committee for Work and Social Security.

The Committee recalls that in its previous comments it emphasized that, in setting minimum wages, it should be borne in mind that they must ensure a satisfactory standard of living for workers and their families, as the Committee stated in its General Survey of 1992 (paragraphs 428 and 429).

Article 4. The Committee recalls that in its previous comment it pointed out that States ratifying this Convention undertake to adopt the necessary measures to ensure that the wages paid are not lower than the applicable minimum rate. The Committee notes the statements made by the Government before the Conference and the information contained in its report. It notes that the labour inspectorate is engaged in measures to ensure observance of minimum wage rates. It hopes that the Government will continue to make the necessary effort to ensure that the rates fixed continue to be applied in the private sector. The Committee notes with concern, however, the Government's statement that in the public sector application of the SMIG continues to be a problem because the State has for some time been struggling with enormous budgetary and financial difficulties due to the structural adjustment measures imposed on it. The Committee urges the Government to take the necessary steps to enforce the minimum wage rates fixed in the public sector.

Article 5 in conjunction with *Part V of the report form.* The Committee notes the information supplied by the Government in its report, and urges the Government to continue supplying information on the practical application of the provisions of the Convention, and particularly to provide statistics on the number of workers covered by the minimum wage, extracts from inspection reports indicating the sanctions applied for breach of the fixed minimum wages, etc.

Comoros (ratification: 1978)

The Committee notes the information supplied by the Government in its reports. It also notes the comments sent by the Autonomous Trade Union of Comorian Workers (USATC) and the Government's reply to them.

Article 3, paragraph 2(2), of the Convention. In reply to the Committee's previous comments, the Government states that, despite the adoption of Decree No. 94-047/PM of 3 August 1994 on the organization and operation of the Higher Labour and Employment Council (CSTE), the latter was unable to perform its duties because the Government of the time was unable to supply the material and technical resources needed to organize meetings, the CSTE being composed of members from various islands. In its comments, the USATC states that the CSTE never met and never took any decision on the minimum wage; and that the agreement concluded in 1994 with the Government concerning the principle of tripartite consultations on minimum wages remained a dead letter. It further states that, since 1994, the trade unions have been calling for a minimum wage adjustment nationwide. The Government indicates in this connection that the Minister of Labour tabled proposals for a minimum wage review in 1980, 1982 and 1996 but that the Council of Ministers took no decision owing to the difficult economic circumstances.

The Committee also notes that, by virtue of a ministerial order, new members have been appointed recently to the CSTE to deal with a number of labour and employment issues. It also notes that the Government would be grateful to receive technical assistance from the ILO, particularly in the context of the regional programme to promote social dialogue in French-speaking Africa (PRODIAF), to ensure that the CSTE is actually set up and operates on a regular basis and that its members receive training.

The Committee hopes that the Office will be in a position to provide the requisite assistance very shortly and that the Government will take the necessary steps as soon as possible to reactivate the CSTE so that minimum wages can be fixed or adjusted in accordance with the Convention. It asks the Government to provide detailed information on progress made in this respect.

Article 5 of the Convention and Part V of the report form. The Committee notes that the Government acknowledges in its report that the minimum wage set by regulation in 1973 at 24 Comorian francs (CF) per hour has still not been reviewed and that no text to update the minimum wage has been drafted for the private sector. The Government nonetheless stresses its intention of relaunching the CSTE tripartite consultations on minimum wages with technical support from the ILO. The Government further states that three categories of regional monthly minimum wages were fixed at Anjouan in 1993-94: CF17,500 for unskilled workers, CF22,500 for skilled workers and management and CF30,000 for higher management. In its comments the USATC deplores the fact that enterprises pay wages of anywhere between CF3,000 and 7,200 per month as they see fit, and some establishments pay wages of CF20 per hour. The USATC also states that the minimum wage is nothing less than "taboo" as far as the authorities are concerned and that there are wages of CF17,000 in the public sector despite a decree of 1987 establishing the minimum wage at CF22,000.

The Committee asks the Government to continue to supply detailed information on developments regarding the rates of minimum wages applied in the country and hopes that the Government will be in a position in the very near future, with technical assistance from the Office, to report that the minimum wage-fixing machinery is operating soundly.

Grenada (ratification: 1979)

The Committee notes with regret that despite its repeated requests, no report has been submitted by the Government in the last seven years. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous comment, which read as follows:

> The Committee notes in particular that work on the Labour Code has restarted with assistance from the International Labour Office and in consultation with the employers' and workers' organizations concerned (Grenada Employers' Federation and Trade Union Council). In addition, the Committee understands that a draft revision of the labour

legislation – which includes provisions on the protection and regulation of wages – has already been transmitted to the Government by the Office. The Committee hopes that the revised labour legislation will come into force in the near future and that, as soon as it has been adopted, a copy of it will be sent to the Office. Please also continue to provide, in accordance with *Parts IV and V of the report form*, all available information on the results of the operation of the minimum wage fixing machinery.

Nigeria (ratification: 1961)

The Committee notes with regret that despite its repeated requests, no report has been submitted by the Government in the last eight years. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous comment, which read as follows:

> The Committee notes that the last Government's report simply indicated no changes. It hopes that the Government will supply information on the results of the application of the minimum wage fixing machinery, including, inter alia, the approximate number of workers covered, the minimum rates of wages fixed, and the more important of the other conditions, if any, relevant to the minimum rates, as required by *Article 5 of the Convention*.

Turkey (ratification: 1975)

The Committee notes the information contained in the Government's report as well as the comments made by the Confederation of Turkish Trade Unions (TÜRK-IŞ), the Confederation of Turkish Employers' Associations (TISK), and the Confederation of Progressive Trade Unions of Turkey (DISK). Because of the problem of translation, the Committee intends to analyse the comments made by the TISK and the DISK, together with the Government's response, in its next report.

1. The Committee has been commenting for many years on the need to amend the national legislation to specifically extend the coverage of the Labour Act to include homeworkers and domestic workers. The Committee regrets to note that the Government is still unable to report any progress in this respect other than stating that according to the Government Plan of Action of 2000 such atypical forms of employment should be regulated, and that a homeworker experiencing problems related to minimum wages might seek protection through the labour inspection or labour courts. The Committee urges the Government to take all necessary action in order to bring the national legislation into full conformity with the Convention with respect to homeworkers, and to provide information on any further developments in this regard.

2. The Committee notes that the comments of TÜRK-IŞ reiterate in substance those attached to the Government's previous report. The TÜRK-IŞ considers that the home-working system, including domestic workers and workers engaged in "contract labour", is the most common form of evasion of the protective labour legislation, and that the national legislation on minimum wages should be extended to encompass these two categories of home-working trades. The TÜRK-IŞ is also of the opinion that supervision and sanctions in matters of minimum wages are totally insufficient, especially in the light of the spread of clandestine employment and the increasing number of establishments in the informal economy.

In this connection, the Government states in its report that the difficulty in the supervision of home work is a reality because of the nature of the work, and mainly because of the inviolability of the home asylum. The Government indicates that the intervention of labour inspectors is only possible in the case of a complaint or specific demand, but that no such complaint or demand has been submitted to the authorities from the workers concerned. It also states that the direct intervention of labour inspectors will only be possible after appropriate regulations to this effect come into force and that the regulation of flexible or non-standardized types of work is among its medium-term priorities.

The Committee further notes that according to the Government's report, ad hoc working committees have been established in the Labour Inspection Board in order to improve the efficiency of labour inspection, for instance, by changing the methods of intervention and inspection and targeting the most vulnerable groups of workers. The Government also indicates that the recruitment of 100 new assistant labour inspectors is on the agenda of the Ministry of Labour and Social Security. Further to its previous comments, the Committee again requests the Government to supply detailed information in its next report on the measures taken or envisaged regarding the reinforcement of the supervisory and inspection machinery, especially in relation to homeworkers and workers employed in the informal sector.

3. Regarding the ongoing process of revising the minimum wage-fixing machinery, in relation to which meetings with the social partners have been held since 1997, the Committee notes that such revision should be completed under the Government Plan of Action of 2001. The Committee hopes that the Government will make every effort to reach a consensus on the proposed amendment of the minimum wage-fixing machinery and that it will soon be in a position to report concrete progress to this end.

The Committee notes with interest the information provided by the Government in its report concerning the minimum wage rates fixed for 2000-01 and requests it to continue providing, in accordance with *Article 5 of the Convention* and *Part V of the report form*, general information on the manner in which the Convention is applied in practice, including for example changes in the minimum wage rates in force, available statistical data on the number and categories of workers covered by the minimum wage regulations and inspection results, e.g. violations reported and penalties imposed.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Bahamas, Belgium, Bulgaria, Burundi, Chile, Democratic Republic of the Congo, Djibouti, Guinea-Bissau, Saint Vincent and the Grenadines, Seychelles, Sierra Leone, Sudan.*

Convention No. 29: Forced Labour, 1930

General observation

Privatization of prisons and prison labour

1. Conference Committee discussions

In paragraphs 82 to 146 of its General Report to the 89th Session of the International Labour Conference, 2001, the Committee reviewed the criteria for the observance of the Convention in relation to the privatization of prisons and prison labour, in the light, inter alia, of views expressed earlier in the Conference Committee on the Application of Standards. The Committee notes the discussion on its General Report that took place in the Conference Committee on the Application of Standards in 2001. It notes that a number of governments as well as the Worker members accepted this Committee's conclusions on the conditions under which the privatization of prisons and prison labour may be held compatible with the Convention. Some governments stated that the matter called for further examination. The Government members of Australia, the Syrian Arab Republic and the United Kingdom and the Employer members expressed to a varying extent disagreement with the indications given by this Committee. Their arguments turned upon the following points.

2. Rehabilitation

The Government member of the Syrian Arab Republic stated that work by prisoners which was performed in the context of training and rehabilitation could not be regarded as forced labour, and it was important to make a distinction between penal sanctions and forced labour. In this regard, the Committee refers to paragraph 94 of its General Report of last year, where it indicated that it is apparent both from the ILO Memorandum of 1931 on Prison Labour and from the Standard Minimum Rules for the Treatment of Prisoners drawn up under the auspices of the League of Nations in 1929 that the performance of prison labour in the context of a process called "rehabilitation", which was "precisely the aim of modern penal systems", was the prevailing concept at the time of the elaboration of the Forced Labour Convention. It is against this background that an exemption from the scope of the Convention was made in *Article 2(2)(c)* for compulsory prison labour, but subject to the specified range of conditions and safeguards regulating the State's right to impose such labour. These conditions and safeguards concern both the basis for an obligation to work – a conviction in a court of law – and the modalities governing the use of compulsory labour, which will once more be considered in point 5 et seq. below, after an examination of more general questions concerning the Convention and, indeed, the role of the ILO, raised at the Conference Committee.

3. Competence of the ILO

At the Conference Committee in 2001, the Employer members stated that "the regulation of the right to impose prison labour at the national level was outside the competence of the ILO". If this were merely to say that the ILO has no legislative powers at the national level, the same is true for all standards set by the ILO. But since States are bound to observe in national laws and regulations the requirements of ILO Conventions they have ratified, and Convention No. 29 does indeed regulate – at the international level – the right of States to impose prison labour at the national level, the Employer members appear to challenge the authority of the International Labour Conference in having adopted the conditions included in *Article 2(2)(c) of the Convention*.

If there was any doubt as to the competence of the ILO in this respect, it would have been removed by the Declaration concerning the aims and purposes of the International Labour Organization, which is part of the ILO Constitution.

4. *Role of other international instruments and protection under the Convention*

At the Conference Committee in 2001 the Government member of Australia pointed out that the 1966 International Covenant on Civil and Political Rights did not address the role of private contractors with regard to prison labour. This statement echoes the declaration made by the Government member of Australia at an earlier session and quoted in paragraph 92 of the Committee's General Report last year, that attention should be paid to other human rights' instruments dealing with the same issues "in the interest of cohesive international jurisprudence". The Committee examined the question in paragraph 102 of the same General Report and concluded that in its view, "the interest of cohesive international jurisprudence" did not call for a reduction of the protection given under the Forced Labour Convention.

The Committee maintains this conclusion which has not been challenged, although the Employer members at the Conference Committee in 2001 voiced objection to the use of the term "jurisprudence". That term, however, had been chosen by the Government member of Australia and was referred to by this Committee in quotation marks.

5. *Conditions governing the use of compulsory prison labour*

To be exempted from the Convention under the terms of *Article 2(2)(c)*, compulsory prison labour not only needs to be the consequence of a conviction in a court of law, but also must meet two conditions governing its use: it must be "carried out under the supervision and control" of a public authority and the prisoner must not be "hired to or placed at the disposal of private individuals, companies or associations".

In this regard, the Government member of Australia at the Conference Committee in 2001 contended, with reference to the preparatory work of the Convention, that private contractors who were paid by the Government for carrying out public services should be treated on the same footing as governments and be exempted from allegations of forced labour. By subsequent letter dated 27 June 2001, the Government has withdrawn this contention.

Nevertheless, in the view of the Government of Australia, "this does not detract from the remaining material" in its statement to the Conference Committee and its "concluding view that the private management of prisons was not envisaged by the 1930 Conference". These matters will be considered in points 6 and 7 below.

6. *Conditions regarding public authorities and private entities: Cumulative or interchangeable?*

In its statement to the Conference Committee in 2001, the Government member of Australia held that "if it could be demonstrated that appropriate protections, involving a role for the public authorities, were in place for privately managed prisons, then it was of no relevance that the prison was privately managed". In that regard, this Committee has always made it clear that the two conditions for the use of compulsory prison labour are cumulative and apply independently: i.e. the fact that the prisoners remain at all times under the supervision and control of a public authority does not in itself absolve the Government from the requirement to fulfil the second condition, namely that the person is not hired to or placed at the disposal of private individuals, companies or associations. This was mentioned by the Committee in paragraph 119 of its General Report last year and is borne out by the preparatory work of the Convention, as shown in paragraph 120 of the same report.

7. *Meaning of the terms "hired to or placed at the disposal of": The privatization of prisons and/or prison labour*

While the scope of the terms "hired to or placed at the disposal of" was examined in detail in paragraphs 121 et seq. of the Committee's General Report of last year, the Government of Australia in its letter dated 27 June 2001 expressed its "concluding view that the private management of prisons was not envisaged by the 1930 Conference". In this connection, the Committee also notes the Employer members' contention at the Conference Committee in 2001 that the ILO Memorandum of 1931 on Prison Labour "hardly indicated what the Conference had in mind in 1929 and 1930 in adopting *Article 2, paragraph 2(c)*, of the Convention".

The Committee again refers to the ILO Memorandum of 1931 which clearly indicates what was understood, at the time of the adoption of the Convention, by systems of prison labour in which the labour of the prisoners is hired out to private contractors (private persons, companies or associations). As indicated in paragraphs 96 et seq. of the Committee's General Report of last year, these systems included both the "Lease System", i.e. the private management of prisons, including the boarding, lodging, clothing, guarding and employment of the prisoners which may be subject to periodic inspection by state officials; and the "Special Contract System", where the State retains the whole administration of the prison, and the prison authorities select the prisoners who are allotted to a private contractor who in turn supplies the raw material and the tools, whose agents direct the work, being admitted to the prison for this purpose, and who pays the prison authorities for the prisoners' work and retains the output.

As the Committee noted in paragraph 100 of its General Report last year, the 1931 description of the "special contract" system fully corresponds to the practice that is now followed in Germany and Austria. Also, the "private prisons" in Australia and the United Kingdom generally correspond to the "lease system" as described in 1931, with the following qualification: then the private contractor had to pay an agreed per capita rate to the State while now the overall balance of payments between State and contractor is often – but by no means always – reversed: that is, the State subsidizes the private contractors at an agreed per capita rate.

In this regard, the Committee noted in paragraph 123 of its General Report last year that, since the position of a person placed by the State with the obligation to work in a prison run by a private contractor is not affected by the question whether the contractor pays the State or the State subsidizes the contractor, it may be concluded for the purposes of the Convention that where in the first case the prisoner is "hired to" the private contractor, in the second he or she is "placed at the disposal of" the private contractor.

As the Committee indicated in paragraph 127 of its General Report last year, the contrary view would lead to an absurd distinction between the "less privatized" special contact system and fully privatized prisons. While the former is incompatible with *Article 2(2)(c)* in so far as it provides for the "hiring" of compulsory prison labour because the operators of private workshops within state prisons pay the State for the use of the prisoners' compulsory labour, by contrast, a scheme where the prisoner is compelled to work in a totally private prison would escape the scope of the Convention as long as the private contractor is dispensed from paying the State.

8. *Role of private profit or benefit*

The question of the direction in which payments flow between the State and private contractors is closely linked to the issue of profit or benefit. At the Conference Committee in 2001, the Employer members states that:

> The additional requirement adduced by the Committee of Experts that private enterprises should not make profit out of prison labour had its origin in the period before the universal acceptance of the free-market principle. Any prohibition on private enterprises making a profit from the hiring of prison labour ignored the fact that no companies could in the long run operate without profits. These facts could not be disproved merely by referring to the ILO Memorandum published in 1932.

The Committee must point out that it never formulated a requirement that private enterprises should not make profit: on the contrary, this criterion, which had been resorted to by the Government representative of Australia in the discussion of the Australian situation in the Conference Committee in 1999, was rejected by the Committee in paragraphs 124 to 127 of its General Report last year, where it pointed out that "the Convention refers nowhere to 'profit' in the sense of a balance sheet result", and the amendment which introduced to *Article 2(2)(c)* the words "or placed at the disposal of", following a proposal of the Workers' group "intended to strengthen the clause", also added the words "other entities", subsequently replaced by "associations", which would also cover non-profit-making associations.

9. *Free-market principles*

While no requirement as to the absence of profit was adduced by the Committee, it has noted the Employer members' suggestion that "the universal acceptance of the free-market principle" might make obsolete legal requirements of a basic human rights Convention, in a field where an even older international instrument first interfered with the then free trade in human beings. Such suggestion disregards the peremptory character of basic human rights standards in international law, and is unacceptable.

Moreover, in the view of the Committee, truly universal acceptance of free-market principles, that is, for all parties, including the workers concerned, is not in conflict with the Forced Labour Convention but, to the contrary, a prerequisite for the rightful use of prison labour by private individuals, companies or associations.

At the Conference Committee in 2001 the Government member of the United Kingdom stated that "private sector involvement was needed in order to provide meaningful work for prisoners", but claimed that "voluntary participation of prisoners in private sector prison work was wholly unrealistic". This position not only conflicts with the provisions of the Forced Labour Convention as well as the practical experience of outside employment of prisoners in the United Kingdom and the manner in which prison labour is organized in a number of other countries, but is also self-defeating. The Worker member of the United Kingdom at the same Conference Committee session recalled that:

> … the fact was that, with few exceptions, the work provided by private companies was low skilled or unskilled, labour intensive and could not be carried out at a profit in the free labour market, expect perhaps by exploited homeworkers.

As noted by the Committee in its General Report of last year, the position that prison labour made sense only when it involved productive labour in a market context did not sit well with the view that prisoners working for private companies should at the same time be denied the employment conditions prevailing on the free labour market.

10. Conditions for private employment of prisoners

It follows from the scope of *Article 2, paragraph 2(c)*, of the Convention, as recalled in point 7 above, that the privatization of prisons and/or of prison labour is only compatible with the Convention where it does not involve compulsory labour.

The Committee always has made it clear that in order to comply with the Convention, the work of prisoners for private companies requires the freely given consent of the workers concerned, without the menace of any penalty in the wide sense of *Article 2, paragraph 1*, of the Convention, such as loss of privileges or an unfavourable assessment of behaviour taken into account for reduction of sentence.

Furthermore, in the context of a captive labour force having no alternative access to the free labour market, "free" consent to a form of employment going prima facie against the letter of the Convention needs to be authenticated by arm's length conditions of employment approximating a free labour relationship, such as the existence of a labour contract between the prisoner and the private company using his or her labour and free labour market oriented conditions regarding wage levels (leaving room for deductions and attachments), social security and safety and health.

11. Voluntariness

The criteria identified by the Committee for the free consent of prisoners were not challenged as such by any Government members in the Conference Committee in 2001. The Australian Government considered that since the work undertaken in its privately managed prisons fell within the exceptions allowed by Convention No. 29, there was no need to demonstrate voluntarism and "conditions approximating a free employment relationship". The underlying assumption has been considered in points 5 to 7 above. The Government member of the United Kingdom merely considered voluntary participation of prisoners in private sector prison work "wholly unrealistic" and damaging to the rehabilitation of prisoners in the United Kingdom. This was touched upon in point 9 above.

The Employer members considered that this Committee had:

> … indulged in over-interpretation in its statement in paragraph 132 that "however, the most reliable and overt indicator of voluntariness can be gleaned from the circumstances and conditions under which the labour is performed and whether those conditions approximate a free employment relationship". It almost seemed that the prisoners might need to be protected from their own free will in accepting work. Even work outside prisons in the free market did not come near to this idealized view of voluntary work. The Employer members noted that even workers in the free market suffered severe disadvantages if they chose voluntarily not to work, including loss of income, and the failure to develop their skills and careers.

The Committee has noted this view. As regards the constraints to which workers in the free labour market are subjected, the Committee must point out that the employer or the State are not accountable for all external constraints or indirect coercion existing in practice: for example, the need to work in order to earn one's living could become relevant only in conjunction with other factors for which they are answerable.

The situation is quite different where captive labour – such as persons called up for compulsory military service, or serving a prison term – have no access to the general labour market. Limited freedom of choice cannot be equated with free consent. The limited possibility to choose between no work, or work that may anyway be exacted under the exceptions to the Convention, and some other work which does not fall within those exceptions does not necessarily amount to freely given consent. Prisoners do not "need to be protected from their own free will in accepting work", but rather from exploitation of their deprivation of freedom. As long as they are and remain captive labour, their formal consent to work needs to be authenticated by arm's length conditions of employment approximating those accepted by workers having access to the free labour market.

12. Equal treatment

At the Conference Committee in 2001 the Government member of Portugal emphasized that those persons who had been sentenced to imprisonment should not also be deprived of other fundamental rights. They should not therefore be required to carry out compulsory labour whether the prison was public or private. The State should guarantee the fundamental rights of prisoners in both law and practice. The work carried out by inmates in Portuguese prisons was always of a voluntary nature. One of the primary concerns of the legislators in drafting legislation in this area was to guarantee prisoners the same working conditions, with regard to wages, hours of work, rest periods, occupational safety and health and social protection, as those enjoyed by workers on the free labour market.

The Committee fully appreciates the desirability of extending the same rights and conditions to all prisoners. While the Convention provides protection mainly to prisoners working for private enterprises, it is no obstacle to introducing free-market principles to state organizations as well.

* * *

In the light of these indications, the Committee has formulated a number of individual observations concerning the observance of the Convention in States with privatized prisons or prison labour.

Australia (ratification: 1932)

The Committee has noted the comprehensive and detailed information supplied by the Government in its reports received in November 1999 and September and November 2000, in its statements to the Conference Committee on the Application of Standards in 1999 and 2001 and in a letter dated 27 June 2001, as well as the discussion on the observance of the Convention in Australia that took place in the Conference Committee in 1999.

Article 25 of the Convention. The Committee notes with interest from the Government's reports that the Federal Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999 (the Slavery Act) which came into force on 21 September 1999 addresses the growing and lucrative international trade in people for the purpose of sexual exploitation and contains new provisions directed at slavery, sexual servitude and deceptive recruiting; offences are punishable with long-term imprisonment for an individual, and up to A$9.9 million fines for a body corporate. The Government adds that it has sought the cooperation of relevant countries in the enforcement of the new legislation with regard to cross-border activities.

The Committee looks forward to the Government supplying information about the application of the new Federal Act in practice and the adoption of the proposed complementary state and territory legislation as well as on the other aspects of law and practice concerning the trafficking in persons that were raised in the Committee's general observation under the Convention published in 2001.

Articles 1(1) and 2(1) and (2)(c) of the Convention. In its previous observation, dealing with the privatization of prisons and prison labour in Australia, the Committee recalled that compulsory work or service exacted from any person as a consequence of a conviction in a court of law is compatible with the Convention only if two conditions are met: namely, that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations. The Committee asked the Government to provide information on measures taken or envisaged to ensure that any prisoners working for private enterprises offer themselves voluntarily without being subjected to pressure or the menace of any penalty and, given their conditions of captive labour, subject to guarantees as to wages and other conditions of employment approximating a free employment relationship.

The Committee notes that in its letter dated 27 June 2001, the Government has withdrawn its contention, made during the general discussion in the Conference Committee in 2001 and reflected in paragraph 99 of that Committee's General Report, that the 1930 International Labour Conference supported, rather than rejected, the proposal that private contractors who were paid by the Government for carrying out public services should be treated on the same footing as governments, and be exempted from allegations of forced labour. Nevertheless, in the view of the Government, this does not detract from the remaining material in its statement to the Conference Committee and its concluding view that the private management of prisons was not envisaged by the 1930 Conference. In this regard, the Committee refers to the explanations provided in its general observation under the Convention this year.

From the Government's reports there appears to be little change in national law and practice over the last years with regard to the work of prisoners for private enterprises. According to the Government's report received in November 2000, the operator of a private prison (in *Victoria*) "is no more than an agent of the (Correctional Services) Commissioner for the purpose of organizing work to assist in the prisoner's rehabilitation". Meanwhile, the "Code of practice for correctional industry business development" adopted by a resolution of the States' and Territories' Corrective Services Ministers in July 1997 focuses on market access and industry impact but makes no reference to prisoners' rights, wages or conditions of work.

As at June 2000 there were no prisons administered by private concerns under the *Federal, Tasmanian, Northern Territory* and *Australian Capital Territory* jurisdictions, while private prisons existed in *Victoria, New South Wales, Queensland* and *South Australia*.

In *Western Australia*, the state's first privately operated prison was to be completed in September 2000 and run under contract by the Corrections Corporation of Australia (CCA), a private prison service provider, but was still to be controlled by the Ministry of Justice. According to the Government, the creation of the private prison would not introduce any instances of forced labour as defined in the Convention.

As to the state of *Victoria*, the Government reported in November 2000 that prisoners were required to work if they had been convicted and sentenced and were under the age of 65, irrespective of their placement at a public or private sector prison. If a prisoner refused to comply with a direction to work, the prison manager was authorized to impose a penalty, e.g. a fine, and the prisoner was liable also to revert to a more closely supervised regime in another prison unit.

The first contract for a privately owned and operated prison in *Victoria* was awarded to the CCA for the Metropolitan Women's Correctional Centre (MWCC) in Deer Park near Melbourne, which officially commenced operation in August 1996. The Victorian government stepped in to take control of the MWCC in October 2000 after a number of defaults relating to operations at the facility were not resolved by the CCA, and on 2 November 2000 the government announced that agreement had been reached with the CCA to transfer the ownership and management of the MWCC to the public sector.

The two remaining private sector prisons in *Victoria* were the Fulham Correctional Centre in Eastern Victoria, operated by Australasian Correctional Management Pty. Ltd. (ACM) and the Port Phillip Prison near Melbourne, a maximum security prison operated by Group 4 Correction Services, both of which opened in 1997. In 1998, the rate of remuneration in private prisons was stated to be A$6.5 or A$7.5 per day, compared with an award minimum daily rate of almost A$75 for freely employed workers. In 2000 the Government reported daily rates of pay applied since April 1998 which ranged from A$5.5 to A$8.25 (depending upon the degree of responsibility, the complexity and demands of the task, the skills required and/or the hours of duty) for prisoners employed in either a public or private sector operated facility. Prisoners are not eligible for most social security payments, except child support payments, and the children retain their entitlement to medicare benefits.

In addition, as regards prisoners obliged to work in privately run workshops either inside or outside state prisons in *Victoria*, the Government indicated that the Secretary to the Department of Justice may, for and on behalf of the Crown, enter into an agreement with any person in connection with his/her functions in connection with the management of prison industries and prison industry worksites; no information on actual practice has been provided.

In *New South Wales* the only privately managed facility is Junee Correctional Centre which is managed by ACM. "There is an expectation that all inmates will participate positively in all programme activities, including correctional industry programmes, as a component of their rehabilitation, and they generally do so, in accordance with a hierarchy of privileges and sanctions." No information on actual wage levels, any social security benefits or other conditions of employment has been provided, except that programmes are expected to conform to the principle and spirit of all occupational safety and health requirements.

In *South Australia* sentenced prisoners are required to work, as the manager directs, under the terms of the Correctional Services Act, 1982. This includes prisoners in prisons managed by private operators. The private prison contract for the Mt. Gambier Prison requires that services be provided to assist prisoners in gaining opportunities and skills necessary for their effective participation in the labour market after their release. The same private prison contract makes detailed provision for the separate accounting of all monies accumulated through industries activities and the distribution of any profits among: prisoner amenity and welfare projects at the prison; local community projects and charities; victim support charities; the Department for Correctional Services in respect of board and lodging costs of prisoners; the balance being retained by the operator "as an incentive to provide ever more meaningful opportunities and generate worthwhile revenues". No indication was provided regarding the level of payments to prisoners for work performed. Prisoners "are paid an allowance rather than wages", which "can vary taking into account prisoners' skill levels, aptitudes and general demeanour", and "is to encourage the rehabilitation, rather than commercial, dimension of the work policy". All prisoners are entitled to a basic allowance; those who receive only the basic allowance are those who have directly refused to work, such refusal being in contravention of the Correctional Services Act. Prisoners are required to work approximately six hours per day; no information was given regarding other conditions of work and any social security entitlements.

There are two privately run correctional centres in *Queensland*, Arthur Gorrie Correctional Centre and Borallon Correctional Centre, which operate on behalf of the Department of Corrective Services. While the Government states that there are no disincentives or penalties to force prisoners to work, "refusal to work is regarded as not fully participating in the process of self-directed rehabilitation", and "attitude to work is included in the sentence management process". Levels of remuneration range from A$2.04 per day to A$3.99 per day for unskilled to skilled positions; there is an incentive bonus of up to 100 per cent of the base rate and an overall ceiling of A$55.86 per week. On average, prisoners work six hours per day, five days per week. All costs associated with accommodation, food, health, dental services and the provision of a range of personal development and educational opportunities are paid by the state. Social security payments are not available to prisoners. Subject to physical constraints imposed by security measures, all correctional centres are bound to observe statutory occupational health and safety regulations. Workers' compensation is not applicable to prisoners, but an "amenities" allowance for the purchase of essential items such as toothpaste and soap is paid to prisoners who are unable to work.

The Committee has taken due note of these indications. Referring again to the explanations provided in its general observation under the Convention this year, the Committee hopes that the Government will realize that the privatization of prison labour transcends the express conditions provided in *Article 2(2)(c)* of the Convention for exempting compulsory prison labour from the scope of the Convention. To be compatible with the Convention, privatized prison labour thus requires the freely given consent of the workers concerned; in the context of a captive labour force having no alternative access to the free labour market, "free" consent to a form of employment going prima facie against the letter of the Convention needs to be authenticated by arms' length conditions of employment approximating a free employment relationship.

None of these conditions appear to have been met so far in *Australia*, where prisoners' work for private enterprises (alongside public establishments) is either mandatory as in *Victoria*, or in any case a criterion "in the sentence management process", as in *Queensland*, and where prisoners' wage rates for such work are not commensurate with award rates – even when account is taken of possible deductions for board and lodging – and working prisoners are deprived of social security payments and compensation for occupational accidents and diseases.

The Committee hopes that the necessary measures will be taken to ensure observance of the Convention and that the Government will soon be in a position to report action taken to this end.

Austria (ratification: 1960)

The Committee has noted the Government's response to its 1998 observation and general observation.

Articles 1(1) and 2(1) and (2)(c) of the Convention.
Prisoners hired to private enterprises

1. The Committee notes the Government's indication in its report that the national legal order does not make provision for prisons managed by private enterprises. The Government further states that access to prison premises is not permitted for the purpose of employment of prisoners by private parties. This, the Committee understands, is merely to say that prisoners who in fact do work for private enterprises (whose agents do have access to prison premises) are not given an employment contract with these enterprises, nor indeed the protection of general labour legislation.

2. The Committee observes that under section 46, paragraph 3, of the law on the execution of sentences, as amended by Act No. 799/1993, prison labour may be the subject of contracts concluded between prisons and enterprises of the private sector; these may use prison labour in privately run workshops and workplaces both inside and outside prisons. The Committee has earlier had occasion to examine several such

contracts for the hiring of prison labour to private enterprises, under which the prison authorities select the prisoners who are allotted to the private contractor, while the private contractor provides the tools, equipment and materials and in some cases pays part of the building costs, or rent, for workshops established inside prison premises and has at any time free access to these premises. The prisoners are being directed in their work by civilian employees of the contractor, who pays the prison authorities for the labour hired (plus a bonus to the prisoners as an incentive for performance and diligence). The products of the work, as well as the machines and equipment installed, remain the property of the contractor.

3. In the view of the Committee, this arrangement corresponds in all respects to what is meant by the terms "person ... hired to ... private individuals, companies or associations" in *Article 2(2)(c)* of the Convention. Referring in this regard to the explanations in paragraphs 96-123 of its General Report of last year and in points 6 and 7 of its general observation this year, the Committee further observes that the two conditions in *Article 2(2)(c)* for the use of compulsory prison labour are cumulative and apply independently: i.e. the fact that the prisoners remain at all times under the supervision and control of a public authority does not in itself absolve the Government from the requirement to fulfil the second condition, namely that the person is not hired to or placed at the disposal of private individuals, companies or associations.

4. Thus the work of prisoners for private enterprises is only compatible with the Convention where it does not involve compulsory labour. The Committee has always made it clear that in order to comply with the Convention, the work of prisoners for private companies requires the freely given consent of the workers concerned, without the menace of any penalty in the wide sense of *Article 2, paragraph 1*, of the Convention, such as loss of privileges.

5. *Obligation to work and consent requirement.* The Committee notes that prisoners' obligation to work, as laid down in Article 44 of the Act on the execution of sentences, concerns any work to which they are assigned, and is enforceable with fines of up to Austrian S2,000 under section 107(1) No. 7, read together with section 109, No. 4 and section 113 of the Act on the execution of sentences, as amended by Act No. 799/1993. The prisoner's consent is not required for work in private enterprise workshops on prison premises, but only for such work outside prison premises (section 126(3)), and there is a very limited choice between accepting such work and the obligation to perform any other work that can anyway be imposed on the prisoner. Moreover, under section 24 of the Act, a range of "privileges" such as decorating one's room, drawing and painting or watching television depend on good behaviour, i.e. "cooperation with the educational purpose of the punishment".

6. *Captive labour and arm's length conditions of employment.* As indicated by the Committee in point 10 of its general observation, in the context of a captive labour force which has no alternative access to the free labour market, "free" consent to a form of employment going prima facie against the letter of the Convention furthermore needs to be authenticated by arm's length conditions of employment approximating a free labour relationship, such as the existence of a labour contract between the prisoner and the private company using his or her labour and free labour market oriented conditions regarding wage levels, social security and safety and health.

7. In applying these observations to the country circumstances, the Committee notes that:

(a) Under the Act on the execution of sentences, a prisoner has no labour contract with a private company using his or her labour inside or outside prison premises – nor with the prison authorities.

(b) According to the Government's report, the planned extension of social security coverage to prisoners "regrettably continues to be prevented by lack of budgetary means".

(c) Prisoners' gross remuneration, paid by the State (with the exception of limited incentive bonuses that may be paid by private contractors) is benchmarked at 60 per cent of the gross remuneration of an unskilled metal worker performing light work and may be increased by up to half as much again for qualified and heavy work (section 52(1) of the Act on the execution of sentences), but this amount is immediately reduced by three-quarters as a contribution to prison costs, and by unemployment insurance contributions (section 32(2) and 54(1)). As to the remainder, it is available for disciplinary fines (section 113), payments to dependents and to victims of the penal offence, payment of debts (section 54(a)), voluntary affiliation in the social security scheme (section 75(3)) and any attachments permitted under the attachment regulations (section 54(6)). It appears to the Committee that with a contribution for board and lodging taking away 75 per cent of a remuneration that is already fixed substantially lower than prevailing rates on the free market, the work income of a prisoner hired to a private enterprise is far from approximating market conditions, and may often not allow him or her to meet a range of legal commitments.

8. The Committee hopes that, over 40 years after ratifying the Convention, the Government will at last take the necessary measures to grant prisoners working for private enterprises a legal status with rights and conditions of employment that are compatible with this basic human rights instrument.

Bangladesh (ratification: 1972)

The Committee notes the Government's reports.

Forced child labour

In its previous comments the Committee took note of the comments submitted by the World Confederation of Labour, according to which child domestics work in conditions that resemble servitude. The Committee also took note of the concluding observations of the United Nations Committee on the Rights of the Child, on the report submitted by Bangladesh (UN doc. CRC/C/66, 6 June 1997). That Committee expressed its concern "about the large number of children who are working, including in rural areas, as domestic servants as well as in other areas of the informal sector. It is concerned that many such children work in hazardous and harmful conditions, and are often vulnerable to sexual abuse and exploitation". Similar indications had been brought to the attention of the Working Group on Contemporary Forms of Slavery of the United Nations Sub-Commission on the Promotion and Protection of Human Rights.

The Committee requested the Government to pay particular attention to the situation of child domestic workers and to provide information on this matter.

The Committee notes that in its latest report, the Government states that forced child labour is non-existent in Bangladesh, but due to extreme poverty in rural areas and urban slums, child labour exists. The Committee takes note that the Government has provided no information on the particular situation of child domestic workers.

The Committee notes that, according to the "National Report on Follow-up to the World Summit for Children," prepared by the Ministry of Women and Children Affairs (MOWCA) in December 2000, "the exploitation of children and adolescents, especially girls, is a problem in the country. They are often victims of violence like sexual harassment and rape ... In Dhaka city there are an estimated 300,000 child domestic workers". The Committee also takes note of the International Programme on the Elimination of Child Labour (IPEC) "Country Programme Progress Report" for Bangladesh, for the period January-August 2001. The report states that one of the priority target groups during the period under reporting included child domestic workers.

The Commission observes that the question of child domestic labour is the focus of particular attention of the Government and of different organs and programmes of the United Nations (for example, the Committee on the Rights of the Child, the Working Group on Contemporary Forms of Slavery, and IPEC). The Committee has previously noted allegations of the World Confederation of Labour, according to which the situation of child domestic workers in Bangladesh constitutes a violation of the forced labour Convention. The Committee observes that, even if domestic work performed by children may not necessarily be considered forced labour, it is necessary to examine such work both in terms of the conditions under which it is performed and in relation to the definition of forced labour, particularly as to the validity of the consent given and the possibility of terminating employment, in order to determine if it is a situation within the scope of the Convention.

The Committee urges the Government to examine the situation of child domestic workers in light of the Convention, to communicate all information on the working conditions of child domestic workers and on the modalities of their employment, as well as on all measures taken or envisaged to protect such children from forced labour.

Trafficking of women and children

In its previous comments, the Committee noted that a plan of action on child labour envisaged the setting up of a cell on child labour in the Labour Ministry, as well as a national council on child labour comprising representatives of the Government, Bangladesh employers' associations, trade unions and others. The Committee also noted that the plan of action covered child trafficking and child prostitution, and it asked the Government to provide full information on the plan of action on child labour and on a special unit on trafficking set up by the Government. The Committee indicated that it was aware that the situation of trafficking of women and children was particularly complex and difficult, and it encouraged the Government to take measures to raise the level of awareness about trafficking in all sectors of society by resorting to every available means, including awareness campaigns. The Committee asked the Government to provide detailed information on any practical measures taken in this area.

The Committee notes the Government's statement in its report that the Ministry of Women and Children Affairs, in collaboration with IPEC and UNICEF, has adopted a countrywide programme on the prevention of trafficking of women and children. The

Committee also notes the Government's statement that, to combat trafficking, it had enacted the Oppression of Women and Children (Special Provisions) Act of 1995, "which has taken adequate care to prevent such offences".

The Committee has taken note of the Government's "National Report on Follow-up to the World Summit for Children", prepared by the Ministry of Women and Children Affairs in December 2000. In section 4(g) of the report ("Children in Need of Special Protection"), the Government states that, "from the print and electronic media reports, it is apparent that child-trafficking to India, Pakistan and Gulf-countries has been taking place". In section 5(h), the Government states that, "due to widening income inequality, socio-economically disadvantaged families are driven to desperate and difficult circumstances. Trafficking of women to the neighbouring countries is a phenomenon of social and economic deprivation". According to the report, the Government is giving law enforcement "top priority" and in 2000 it passed the Supervision of Violence Against Women and Children Act, repealing the Oppression of Women and Children (Special Provisions) Act of 1995.

The Committee has also taken note of the February 2001 report of the UN Special Rapporteur on violence against women, its causes and consequences. The report, entitled "Integration of the Human Rights of Women and the Gender Perspective: Violence against Women", was submitted to the UN Commission on Human Rights, at its 57th Session (E/CN.4/2001/73/Add.2). The report includes in the Addendum a report of a visit by the Special Rapporteur to Bangladesh to study the issue of trafficking of women and girls in the region, which took place 28 October to 15 November 2000. The report confirms the alarming increase of trafficking as a form of forced labour and refers to the "extensive trafficking from Bangladesh, primarily to India, Pakistan and destinations within the country, largely for purposes of forced prostitution, although in some cases for labour servitude" (paragraph 56). According to the report, some children have reportedly been trafficked to the Middle East to work as camel jockeys. The report states that most trafficked persons, eager to escape the cycle of poverty, are lured by promises of a good job or marriage. Orphans, runaways and others outside the normal family support system are also susceptible. The border between Bangladesh and India is porous, especially around Jessore and Benapole, making illegal border crossings easy.

According to the report, "though the law provides severe penalties for trafficking, few perpetrators are punished. NGOs report that police and local government officials often ignore trafficking in women or are easily bribed to look the other way, or they may even be involved. Exact numbers of charges against traffickers are difficult to obtain and traffickers are usually charged for lesser crimes, such as crossing the border without the correct documentation" (paragraph 63).

The Committee takes note of the ILO/IPEC publication entitled "Trafficking in children in Asia", in which it is pointed out that, "in Bangladesh since trafficking was declared a non-bail offence, it has become very difficult to gather the necessary 'conclusive' evidence to prosecute trafficking cases".

In its general observation in 2001, the Committee recalled that, under *Article 1, paragraph 1*, of the Convention, ratifying States are bound to suppress the use of forced or compulsory labour in all its forms, and that under *Article 25*, the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

The Committee asks the Government to supply further information on the progress achieved in its efforts to improve the legislative support to combat trafficking particularly of children and women. The Government is asked to provide information on the manner in which the Women and Children Oppression Act of 1995 is applied in practice, including the number of prosecutions which have proceeded under it and the extent of penalties imposed. The Committee also asks the Government to supply the text of the Supervision of Violence Against Women and Children Act, which it says it enacted in 2000.

The Committee requests that the Government report on the progress of the multi-sectoral action programme against trafficking of the MOWCA, and on the progress of the Law Commission it has set up to review existing laws and enact new ones to safeguard women's rights and to prevent violence against women including trafficking.

The Committee asks the Government to report on the shortcomings of the Criminal Investigation Department, the unit of the police force specially tasked with speedy investigation of cases of violence against women including those involving trafficking.

Restrictions on freedom of workers to terminate employment

In previous observations and direct requests the Committee has drawn attention to the fact that, under the Essential Services (Maintenance) Act, No. LIII of 1952, it is an offence punishable with imprisonment for up to one year for any person in employment under the Central Government to terminate his or her employment without the consent of the employer, notwithstanding any express or implied term in the contract of employment providing that the employee may freely, and with notice, terminate his or her employment (sections 3, 5(1)(b) and Explanation 2, and section 7(1)). Pursuant to section 3 of the Act, these provisions apply to every employment under the Central Government and to any employment or class of employment declared by the Government to be an essential service. Similar provisions are contained in the Essential Services (Second) Ordinance, No. XLI of 1958 (sections 3, 4(a) and (b) and 5).

In previous comments the Committee has referred to the explanation provided in paragraph 67 of its 1979 General Survey on the Abolition of Forced Labour, where it indicated that workers may be prevented from leaving their employment in emergency situations within the meaning of *Article 2, paragraph 2(d)*, of the Convention, i.e., any circumstances that would endanger the life, personal safety or health of the whole or part of the population. The "essential" services defined under the Essential Services (Maintenance) Act, No. LIII of 1952, and the Essential Services (Second) Ordinance, No. XLI of 1958, are not limited to such circumstances. The Committee has also pointed out in paragraph 116 of the same General Survey of 1979 that, even regarding employment in essential services whose interruption would endanger the existence or the well-being of the whole or part of the population, provisions depriving workers of the right to terminate their employment by giving notice of reasonable length are not in conformity with the Convention.

The Committee, in its 1998 observation, noted the Government's statement that, as advised by the Committee, the legislation would be "re-examined". In its most recent reports the Government states that, under section 5 of the Essential Services

(Maintenance) Act, No. LIII of 1952, "any person engaged in any employment to which this Act applies shall not abandon this employment without reasonable excuse. So there is no bar on the employees to resign from such employment if reasonable grounds exist". The Committee would point out that, under explanation 2 of section 5 of the Act, an employee "abandons" employment when, notwithstanding that under his contract of employment he may terminate his employment on giving notice, he does so "without the previous consent of his employer".

The Committee must once again urge the Government to take steps to repeal or amend the Essential Services (Maintenance) Act, No. LIII of 1952, and the Essential Services (Second) Ordinance, No. XLI of 1958, to bring them into conformity with the Convention.

Brazil (ratification: 1957)

1. The Committee notes the communications from the International Confederation of Free Trade Unions (ICFTU) of August 2001 and the Association of Labour Inspectors of Minas Gerais (AAIT/MG) of 27 June 2001, both of which were transmitted to the Government for its comments. The Committee also notes the communications from the Government dated 26 December 2000 and 26 November 2001.

A. *Forced labour practices*

2. With regard to the existence of forced labour practices and the conditions under which they occur, the Committee notes that both national and international workers' organizations and the Government are in agreement in recognizing the existence of such practices. All agree that despite the legislation that has been adopted to protect agricultural workers, there are still in many regions a high number of workers who, with their families, are subjected to degrading conditions of work and debt servitude.

3. In its comments, based on the reports of the Pastoral Land Commission (CPT) and Anti-Slavery International, the ICFTU refers to the release in April 2001 of 148 workers found working under conditions of forced labour in Maranhão state by the Special Group for Mobile Inspection, and indicates that some of the workers had not been paid since January 2001. On 12 June 2001, another 97 workers were released from the estates of Iolanda (24), Ediones Bannach (73) in South Pará. In its observation in 1996, the Committee had already noted that workers' families at the Bannach estate reported the disappearance of two workers. The Committee also notes that 114 workers enslaved on the Forkilha estate were released in April-May 2001 by the Federal Police.

4. In its report, the Government indicates that in 2001 (up to October) some 960 workers had been released by the Mobile Inspection Group and emphasizes the preventive nature of inspection.

Article 25 of the Convention

B. *Penal sanctions. Impunity of those responsible*

5. In its previous observations, the Committee has recognized that the Government has adopted measures to combat forced labour, but has also expressed its concern at the failure to impose effective penalties, the impunity of those responsible, delays in judicial procedures and the absence of coordination between the various government bodies,

which all hinder the effective abolition of forced labour in Brazil. The Committee noted the adoption of Act No. 9777 establishing more severe penalties for conduct related to the practices of forced labour and requested the Government to provide detailed information on the number of persons convicted under sections 132, 149, 203 and 207 of the Penal Code.

6. With reference to the imposition of penalties, the Committee noted in its previous observation the comments made in August 2000 by the International Confederation of Free Trade Unions to the effect that Act No. 9777 was not being implemented and the action of the Mobile Inspection Group had not managed to bring to justice those responsible for having exacted forced labour. The Committee noted the statistics of the Ministry of Labour itself, which indicated that between 1996 and 1999 only four persons had been imprisoned for having imposed forced labour, despite the fact that during the same period the Mobile Inspection Group, in 25 operations, had freed 1,266 workers found working under conditions of forced labour. According to the same report, the low number of legal proceedings could be a result of the process required to be followed. The labour inspectors are only able to impose administrative sanctions when they find evidence of forced labour, and have no competence to bring criminal proceedings against those responsible. The information is transmitted to the Attorney-General, who decides on whether to initiate penal action. These procedures take a considerable time, which reduces the possibilities of finalizing legal proceedings, since the freed workers generally leave the region to return to their homes or to find other sources of work. Moreover, the fact that the freed workers are not covered by immediate protection measures exposes them to threats and intimidation discouraging them from testifying in the proceedings.

7. In its comments of August 2001, the ICFTU, based on information provided by Anti-Slavery International and the Pastoral Land Commission, reiterates that the current system does not lead to the effective penalization of those who exact forced labour. By way of illustration, it refers to the case of the Brazil Verde estate, in which the Mobile Inspection Group has detected the existence of forced labour on various occasions. Repeated denunciations in 1988, 1989, 1992, 1993, 1997, 1999 and 2000 have not resulted in the conclusion of criminal proceedings commenced in 1997, and suspended in 1999, with no subsequent action being taken to reopen proceedings. The Committee notes that a complaint has been lodged with the Organization of American States (OAS) against the Government of Brazil for negligence in investigating the practice of forced labour in the Brazil Verde estate. Between 1980 and 1998, of the 90 cases involving the use of slave labour denounced in Maranhão, criminal proceedings were only initiated in 14 of them, and resulted in only one case of conviction.

8. The Committee has referred to the scarcity of the penalties imposed on those responsible for exacting forced labour and has considered that the activities of the labour inspectorate are not adequate in themselves to eradicate situations of forced labour, if they are not supported by a prosecutory and judicial system capable of imposing severe penalties on those responsible. The Committee notes that the praiseworthy action taken by the Labour Delegations, including inspection, has resulted in the release of hundreds of enslaved workers, but has not led to the conviction and punishment of those responsible.

9. In its previous observations, the Committee had suggested that the Government should consider the proposal by the Labour Prosecution Service concerning the need to adopt specific and unified legislation on forced labour establishing civil and penal liability and empowering the Labour Prosecution Service to instigate legal action against persons who subject workers to degrading conditions of work or slavery.

10. The Committee also requested the Government to provide detailed information on the number of cases of forced labour brought before the Federal Attorney-General's Office by the inspection services of the Ministry of Labour and the date on which they were submitted. The Committee also requested information from the Federal Attorney-General's Office on the progress in the processing of cases submitted by the labour inspectorate, particularly as regards the percentage of complaints which have resulted in criminal proceedings compared with the total number of complaints received through the inspection services. The Committee also requested information on the number of convictions imposed under Act No. 9777 and section 149 of the Penal Code.

11. The Government in response to these requests, refers in its report of 2001 to a single trial which is currently being held for violation of section 149 of the Labour Code, prohibiting the reduction of a person to a condition similar to that of slavery. The Committee notes that the Government refers to the release of 960 workers (in 2001) who were the victims of forced labour practices, but to a single trial being held in the same period. The Government has not indicated that any penal sanctions have been imposed for the exaction of forced labour.

12. The Committee notes that the information provided by the Government does not contain evidence of compliance with *Article 25* of the Convention, under which "the illegal exaction of forced or compulsory labour shall be punishable as a penal offence" and in accordance with which the Government has to ensure that the penalties imposed by law are really adequate and strictly enforced.

13. The Committee trusts that the Government will take the necessary measures to ensure, in conformity with the Convention and the relevant provisions of the national legislation, that anyone found guilty of having exacted forced labour will be punished with penal sanctions, and that it will provide copies of relevant judicial rulings, especially in the cases mentioned above of the Brazil Verde, Edionnes Bannach and Forkilha estates.

C. Administrative sanctions. Fines

14. The Committee notes the information provided by the Association of Labour Inspectors of Minas Gerais (AAIT/MG), according to which the Ministry of Labour, based on the opinion of the Legal Adviser's Office of the Ministry of Labour (No. 13 of 2001), decided that the sanctions (fines) which may be imposed in the rural sector are the fines provided for in Act No. 5889/73 and not those provided for in the Consolidated Labour Laws (*Diario Oficial*, 1 June 2001). The fines provided for in Act No. 5889 are considerably lower than the fines imposed under the Consolidated Labour Laws for violations of the labour legislation in urban areas. The AAIT/MG illustrates this difference with an example: the fine that can be imposed on an enterprise of 200 workers in urban areas under section 47 of the Consolidated Labour Laws is R$80,506.55 (US$33,555.60). The value of the fine which can be imposed under Act No. 5889 is R$720 (US$300). In the view of the AAIT/MG, "this decision seriously affects the

interests and rights of rural workers, guaranteed by the Constitution of 1988 and ignored by the Ministry of Labour". In the view of the AAIT/MG "this decision by the Ministry shows little respect for the bodies responsible for rural labour affairs and annihilates the effectiveness of the application of sanctions for violations of labour legislation in rural areas".

15. According to the AAIT/MG this decision overturns the practice introduced in 1994 by Regulatory Instruction No. 01 of 24 March 1994, based on article 7 of the National Constitution, which established equal rights for workers in the urban and rural sectors and called for the rigorous application of sanctions in administrative proceedings relating to forced labour, the exploitation of child labour and indigenous persons and threats to the life and health of workers. In its observation of 1996, the Committee noted the information provided by the Government to the effect that the above Regulatory Instruction No. 01 of 24 March 1994 inaugurated a new phase in the prevention and repression of forced labour.

16. The Committee notes the opinion of the Legal Adviser's Office of the Ministry of Labour to the effect that the Consolidated Labour Laws apply in a subsidiary capacity to rural labour in view of the existence of specific legislation on this subject, and that violations committed by rural employers may only be punished on the basis of Act No. 5889.

17. The Committee notes that the great majority of cases of forced labour occur in the rural sector and that violations of labour provisions (such as the registration of workers) can have a direct impact on the protection of workers against situations of degrading or slave labour. The Committee notes with concern that, although the Government reiterates its commitment in its various statements continuing to take measures with a view to eradicating forced labour, particularly through the imposition of effective penalties, few penal sanctions have been imposed on those responsible and, furthermore, a step backwards has been taken with regard to the imposition of administrative sanctions in the rural sector by reducing such sanctions to insignificant fines.

18. The Committee hopes that the Government will take the necessary measures to ensure that when administrative sanctions are imposed on persons infringing labour legislation, these are at least as rigorous as those imposed on violators in the urban sector, bearing in mind that situations of forced labour are essentially found in the rural sector.

D. Coordination between the various government bodies

19. The Committee noted in its previous observation that the Government recognized the need for a standardized framework of legislation with a view to dynamizing procedures to combat the exaction of slave labour and the need for a joint effort by the various bodies involved (the Federal Prosecution Service, the Labour Prosecution Service, the Federal Police, labour courts and federal courts).

20. The Committee notes the Agreement ("Termo de compromisso") concluded on 9 April 2001 by the representatives of the Labour Prosecution Service of the Eighth Region, the Regional Labour Delegation of Pará and three owners of estates in the Pará region. According to the information available to the Committee, one of the signatories is the owner of estates in which cases of slave labour have been denounced. The

Committee notes that, as a result of the negotiations, the competence of the Federal Police to investigate situations of slave labour, ill-treatment and failure to comply with the legislation in force has been withdrawn in the region.

21. The Committee notes with concern that during the past year, not only has there been no progress in the imposition of penalties on those responsible for exacting forced labour, but the Ministry of Labour has also decided that administrative sanctions (fines) are to be lower in the rural sector than those imposed in the urban sector. Furthermore, competence is being withdrawn from the Federal Police to take action in this field. The Committee requests the Government to provide a copy of the Agreement ("Termo de compromisso") concluded on 9 April 2001.

22. The Committee notes once again that, despite the measures taken by the Government, there remain important shortcomings in the application of the Convention. The situation of thousands of workers reduced to a condition that is similar to that of slavery in a situation characteristic of debt bondage requires measures that are commensurate with the magnitude and gravity of such situations. The Committee hopes that the Government will take the necessary measures to combat forced labour and ensure compliance with the Convention.

E. Forced prostitution of young persons

23. The Committee notes that the Government's report does not contain the information requested regarding the allegations that minors are forced into prostitution in the State of Rondonia, made by the International Confederation of Free Trade Unions (ICFTU) in October 1999. The Committee had recalled that work by children in conditions of debt bondage, including the forced prostitution of minors, comes within the scope of application of the Convention and it had noted the Government's indication that it was giving priority to combating child labour.

The Committee hopes that the Government will provide information on the investigations which have taken place concerning these allegations and on any other measures which have been taken in this connection.

Burkina Faso,(ratification: 1960)

1. In its previous comments the Committee referred to articles 178-181 of YATU No. AN VI-008/FP/TRAV of 26 October 1988 issuing the General Public Service Regulations and asks the Government to provide information on the criteria for accepting or refusing the resignation of civil servants.

The Committee noted the Government's statement that, when the General Public Service Regulations were revised, all the relevant practices would be made formal to take account of the Committee's comments on the incompatibility with the Convention of the provisions preventing workers from terminating their employment by means of notice of reasonable length.

In its last report, the Government indicates that the Committee's comments are taken into account in Act 013/98/AN of 18 April 1998 issuing the basic statute on public service jobs and public servants.

The Committee notes with regret that the provisions of articles 178-181, on which it commented previously, have been reproduced with no amendment whatsoever as articles 158 and 160 of the new Act. Under these provisions, public servants wishing to resign must apply in writing two months before the presumed date of departure to the Minister of the Public Service, who must notify his agreement or refusal within two months. Public servants who end their employment despite a refusal by the competent authority, before the latter's express acceptance or before the date set by the authority, are dismissed on grounds of abandoning their duties.

The Committee again emphasizes that, where employment is the result of freely concluded agreement, the effect of statutory provisions preventing termination of employment by means of notice of reasonable length is to turn a contractual relationship based on the will of the parties into service by compulsion of law, which is incompatible with the Convention. The Committee asks the Government to take the necessary steps to ensure observance of the Convention on this point.

2. *Trafficking in persons.* The Committee notes that, according to information from several different sources, a large number of women and children are exploited by traffickers for labour purposes. The aim of such trafficking is to exploit their labour in agriculture, domestic work, prostitution and begging.

According to the ILO's Global Report "Stop forced labour", children from Burkina Faso are forced to work on plantations in Côte d'Ivoire (paragraph 57). Burkina Faso is a sending, receiving and transit country, according to a study by the Ministry of Employment, Labour and Social Security (METSS) of March 2000, cited in the national report of December 2000 on the follow-up to the World Summit for Children, and which refers to the various forms of child exploitation. Most of the children from Burkina Faso sold abroad are employed in agriculture and sometimes subjected to prostitution. The intermediaries, who operate from Côte d'Ivoire, have children delivered to them by intermediaries operating in Burkina Faso (summary report of the subregional project of the International Programme on the Elimination of Child Labour (IPEC/ILO, 2001): "Combating child trafficking for labour exploitation in Western and Central Africa").

The Committee notes the establishment of a National Commission on the rights of the child and a national committee to supervise observance of the rights of the child. It also notes that a study on child trafficking in Burkina Faso is currently being conducted jointly by the Ministry of Employment and Labour and the International Programme on the Elimination of Child Labour (IPEC). The Committee asks the Government to indicate any measures taken to combat trafficking in people and to ensure protection against forced labour.

Article 25 of the Convention. According to *Article 25* of the Convention, the illegal exaction of forced or compulsory labour must be punished as a penal offence and it is an obligation on any Member ratifying the Convention to ensure that the penalties imposed by law are really adequate and strictly enforced. The Committee observes that, according to the Government's report, no legal proceedings have been instituted to punish those trafficking in persons for labour exploitation.

The Committee notes Act No. 43/96/ADP of 13 November 1996 issuing the Penal Code.

The Committee asks the Government to provide information on legal proceedings instituted against persons trafficking in human beings and the penalties imposed.

It notes that sections 244 and 245 of the Penal Code establishes penalties of imprisonment for persons forcing adults or minors into begging. The Committee asks the Government to provide information on the application of these provisions in practice, particularly the number of prosecutions and the penalties imposed.

3. The Committee noted in its previous comments that, according to the Government, in the revision of the Penal Code account would be taken of new forms of exploitation, including certain slavery-like situations such as employment of children in households without any particular status and without adequate remuneration.

It also noted the provisions of Order No. 539/ITLS/HV of 29 July 1954 concerning child labour in all establishments, whatever their nature, and in households, which contains detailed provisions to ensure the protection of children in domestic service and Order No. 545/GTL/HV of 2 August 1954, which prohibits the employment of children under the age of 14 for more than four and a half hours in all per day.

The Committee had asked the Government to provide full particulars of any measures taken to ensure that effect is given to the provisions of the abovementioned Orders. The Committee notes that the Government's report contains no information on this matter and asks the Government to provide on the next occasion the particulars requested.

Burundi (ratification: 1963)

The Committee notes that the Government's report contains no information on the points raised in its last observation.

In comments it has been making for several years, the Committee has asked the Government to provide information on the measures taken to bring certain provisions of the national legislation into line with the Convention. The Government stated that the country's position regarding the Conventions on forced labour had not changed, since it had not been possible to adopt any new texts owing to the crisis. The Committee notes that statement once again and hopes that the Government will soon be in a position to provide information on specific measures taken regarding the following points, raised in the Committee's previous comments.

1. In its previous comments concerning Ordinances Nos. 710-275 and 710-276, establishing obligations respecting the conservation and utilization of the land and the obligation to create and maintain minimum areas of food crops, the Committee emphasized the need to set out in the law the voluntary nature of agricultural work.

The Committee noted the Government's statement that measures to repeal these Ordinances were envisaged in the very short term. The Committee requests the Government to supply the texts repealing the above Ordinances, once they have been adopted.

2. The Committee referred to certain texts relating to compulsory cultivation, porterage and public works (Decree of 14 July 1952, Ordinance No. 1286 of 10 July 1953, Decree of 10 May 1957), and recommended that they be formally repealed.

The Committee noted the Government's statement that the above texts warrant express revocation, mainly because they reflect the colonial era and have fallen into disuse, and that measures have been taken with a view to repealing them.

The Committee requested the Government to supply a copy of the texts which are adopted for this purpose.

3. The Committee noted that Legislative Decree No. 1/16 of 29 May 1979 establishes the obligation, under penalty of sanctions, to perform community development work.

The Committee noted that a study transmitted by the Government recommended that the text in question be repealed and replaced by the relevant provisions of Legislative Decree No. 1/11 of 8 April 1989 to reorganize commune administration. The Committee requested the Government to supply information on the provisions adopted in this respect.

4. Referring to sections 340 and 341 of the Penal Code which establish sanctions for vagrancy and begging, and to earlier comments, the Committee noted that an opinion on the matter had been requested from the Ministry of the Interior. The Committee requested the Government to supply information concerning the action envisaged to follow up its comments and on the programme of vocational rehabilitation which the Government considered should prevent vagrancy and begging by providing assistance to persons without employment. The Committee noted Ordinances Nos. 660/161 of 1991, 660/351/91 and 660/086/92, the texts of which were supplied by the Government.

The Committee hopes that the Government will make every effort to take the necessary measures in the near future.

5. *Article 2, paragraph 1.* The Committee notes the concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add.133, paragraph 71) in which the abovementioned Committee expresses its concern at the use of children by the state armed forces either as soldiers or as helpers in camps or in the obtaining of information. It also expressed its concern at the low minimum age of recruitment to the armed forces (paragraph 24). According to these observations, there are reports of widespread recruitment of children by opposition armed forces and of sexual exploitation of children by members of armed forces.

The Committee notes the report on the end-of-decade review of the national action programme, produced in January 2001 by Burundi as part of the follow-up to the World Summit for Children. A national action plan for the survival, protection and development of children for the 1990s was established in 1990. The programme was assessed at the end of 1999. The report in question refers to the situation of street children and child soldiers (paragraph 86) and sexual or commercial exploitation of children (paragraph 94). The child soldiers are between 12 and 16 years of age and are used as messengers, servants, lookouts or scouts. As camp followers of the combatants they are often easy targets, being untrained in protection techniques. The rebels allegedly enrol primary school children from the age of 12. The minimum age for conscription in the armed forces of Burundi is 16 years, but there are indications that children are used by soldiers for odd jobs.

The Committee asks the Government to provide information on measures taken to protect children from forced recruitment to serve as soldiers or perform tasks for military personnel. It also asks the Government to provide information on the evaluation of the national action plan for the survival, protection and development of children for the 1990s.

The Committee notes the concluding observations of the Committee on the Elimination of Discrimination Against Women (CEDAW/C/2001/1/Add.1) according to which the Government adopted legislation in January 2001 punishing the trafficking of women and their exploitation for prostitution.

Article 25 of the Convention. Article 25 of the Convention requires the unlawful exaction of forced labour to be subject to penal sanctions, and any Member ratifying the Convention is bound to satisfy itself that the sanctions imposed by law are really effective and strictly applied. The Committee asks the Government to provide a copy of the new Penal Code, the new Code of Penal Procedure and the legislation prescribing the punishment of trafficking in women and exploitation for prostitution, and to provide information on legal proceedings to prosecute those responsible and the penalties imposed.

Cameroon (ratification: 1960)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation on the following points.

> 1. The Committee refers to its previous comments requesting the repeal or amendment of Act No. 73-4 of 9 July 1973 instituting the National Civic Service for Participation in Development, which allows the imposition of work in the general interest on citizens aged between 16 and 55 years for 24 months with penalties of imprisonment for refusal. The Committee notes the Government's explanations that non-repeal of the Act in question is linked to the pace of adoption of texts by the institutions of the Republic and that, since the National Office for Civic Service has been dissolved, the probability of there being cases of forced labour is unlikely.
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> Recalling that this Act has been the subject of comments for over 20 years, the Committee trusts that the Government will do its utmost to give priority to bringing the legislation into conformity with the Convention on this point and that it will indicate the measures taken.
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> 2. *Freedom to leave the service of the State.* In its previous comments, the Committee noted that under the provisions of Act No. 80/12 of 14 July 1980, officers recruited by competition sign a contract of indeterminate duration which means in practice that they are required to serve until the age limit for their grade and that applications for resignation are accepted only on exceptional grounds.
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> The Committee noted the Government's indications that under sections 53 and 55 of the abovementioned Act, resignation of career members of the armed forces can be accepted on the following grounds: the person in question is recognized as the family breadwinner; he must succeed to his father, particularly if the latter is a traditional chief; or he believes he will have greater opportunities in an elective post.
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> Referring again to paragraphs 67 to 73 of its 1979 General Survey on the abolition of forced labour, the Committee recalls that persons in the service of the State, including career members of the armed forces, should have the right to leave the service in peacetime within a reasonable period, either at specified intervals, or with previous notice, subject to the conditions which may normally be required to ensure the continuity of the service.
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> The Committee hopes that the necessary measures will be taken to ensure that career members of the armed forces may leave the service within a reasonable period and that the Government will indicate the provisions adopted to this end.
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> 3. *Article 2, paragraph 2(c), of the Convention.* The Committee has for very many years referred to the provisions of Decree No. 73-774 of 11 December 1973 promulgating

the prison system which permitted the hiring of prison labour to private enterprises and individuals, and has asked the Government to take steps to prohibit this practice. The Committee noted the statement by the Government representative to the Conference Committee in 1990 drawing attention to measures adopted by the Ministry of Territorial Administration to prevent prison labour from being hired to, or placed at, the disposal of private individuals or companies. In its report received in 1996, the Government states that no new provisions have been adopted and that it would not fail to provide information on any action taken along the lines hoped for by the Committee.

In its latest report, the Government indicates that Decree No. 73-774 of 11 December 1973 promulgating the prison system has been repealed and replaced by Decree No. 92-052 of 27 March 1992. The Committee notes with regret that sections 51 to 56 of that Decree still provide for the transfer of prison labour to private enterprises and individuals. It notes the Government's statement in its report that "the problem of consent does not arise since requests exceed demand and the prisoners' freedom of choice is thus safeguarded".

The Committee notes that under sections 51 to 56 of Decree No. 92-052, the transfer of prison labour is not subject to consent by those concerned. Moreover, there cannot be real freedom of choice since the prison workforce, defined in section 53 as liable to compulsory labour, has no access to work, in law and in practice, other than in conditions established unilaterally by the prison administration. The absence of free choice is confirmed by section 56 of the Decree under which, "without regard to the usual compulsory work and hiring out of prison labour, prisoners may be used without payment by the prison administration for productive work and work of general interest".

The Committee recalls that the transfer of prison labour to private enterprises and individuals is specifically covered in *Article 2, paragraph 2(c)*, of the Convention and, as it has indicated on many previous occasions, it is only when carried out in the framework of a free employment relationship that work for private enterprises and individuals may be considered to be compatible with the specific prohibition of *Article 2, paragraph 2(c)*. That necessarily requires the formal consent of the person concerned and, bearing in mind the circumstances of this consent, there must be supplementary guarantees covering the essential elements of a labour relationship, including a level of remuneration and social security corresponding to a free labour relationship for the employment to be outside the scope of *Article 2, paragraph 2(c)*, which prohibits unconditionally that persons obliged to perform prison labour be hired to, or placed at the disposal of, private enterprises.

The Committee hopes that the necessary measures will finally be taken to bring national provisions governing prison work into conformity with the Convention on these points. It requests the Government to supply information on any provisions adopted to this end and, meanwhile, to communicate copies of the implementing instruments mentioned in sections 51, paragraph 1, 52 and 53, paragraph 2, of Decree No. 92-052 of 27 March 1992, regulating the prison system in Cameroon.

The Committee is also addressing a request directly to the Government on certain points.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Central African Republic (ratification: 1960)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following points:

Article 1, paragraph 1, and Article 2, paragraph 1, of the Convention. 1. Since 1966, the Committee has been pointing out to the Government that Ordinance No. 66/004 of

8 January 1966, respecting the suppression of idleness (as amended by Ordinance No. 72/083 of 18 October 1972) is contrary to the provisions of the Convention. The Committee also drew the Government's attention to the non-conformity with the Convention of section 11 of Ordinance No. 66/038 of June 1996 respecting the supervision of the active population, and sections 2 and 6 of Ordinance No. 75/005 of 5 January 1975, making the performance of commercial, agricultural and pastoral activities compulsory.

2. The Committee noted the Government's indications that the abovementioned texts have fallen into abeyance and that measures were to be taken to bring the law and practice into conformity with international labour Conventions. With particular reference to Ordinance No. 66/004 of 8 January 1966, the Government has been stating for 30 years that repealing legislation has been drafted.

3. The Committee notes that the Government's report, while indicating that article 8 of the new Constitution of 14 January 1995 abolished forced labour in all its forms, does not contain any other information on the measures adopted to bring the above-mentioned texts into conformity with the Convention. The Committee expresses firmly the hope that in the light of the new Constitution, the Government will take the necessary measures in the very near future to give effect to the Convention.

Article 2, paragraph 2(a), of the Convention. 4. In its previous observations, the Committee noted that section 28 of Act No. 60/109 of 27 June 1960 respecting the development of the rural economy, which provides for minimum surfaces for cultivation to be established for each rural community, is contrary to the requirements of the Convention. The Committee has also noted the Government's previous indication that the practice of compulsory cultivation no longer existed and that vigorous efforts were being made instead to provide guidance to encourage cultivation. In this light, and in view of the new Constitution, the Committee hopes there will be repeal or amendment of the legislation to bring it into conformity with the Convention.

5. The Committee also noted the Government's statement that new draft texts would be introduced to reinforce the national legislation on forced labour. It hopes that the new legislation will take into consideration the comments that it has been making on this subject for many years and that the Government will transmit copies of the texts adopted.

6. The Committee had reminded the Government that it may call upon the technical assistance of the International Labour Office to help it resolve difficulties encountered in bringing its legislation into conformity with the ILO's Conventions on forced labour.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Chad (ratification: 1960)

The Committee has been referring for many years to the provisions of section 982 of the Tax Code (formerly 260bis) which allows authorities to impose labour for the purpose of tax collection, and article 2 of Act No. 14 of 13 November 1959 under which persons convicted of penal offences can be subjected, by administrative decision, to work which is in the public interest.

The Committee again notes that, according to the Government's report, these provisions have not yet been amended or repealed although the Government has repeatedly stated that this was its intent. The Committee hopes that the Government will take the necessary measures without further delay to ensure that the Convention is observed on these points.

Congo (ratification: 1960)

The Committee notes the Government's report and the report on the Government's inquiry into cases of slavery among Bantus in the city of Pointe-Noire.

1. *Article 2, paragraph 2(d), of the Convention.* In its previous comments, the Committee asked for the repeal of Act No. 24-60 of 11 May 1960 which allows persons to be requisitioned for work of public interest in cases which do not constitute the emergencies provided for in *Article 2, paragraph 2(d)*, of the Convention. The above Act establishes penalties of imprisonment of from one month to one year for requisitioned persons who refuse to work.

The Committee noted that Act No. 6-96 to amend and supplement provisions of Act No. 45/75 issuing the Labour Code prohibits forced or compulsory labour. It notes, however, that Act No. 24-60 of 1960 is still in force.

The Committee asks the Government to indicate the measures taken or envisaged to bring the national legislation into line with the Convention.

2. In its previous comments, the Committee noted that the Government may request the population to carry out certain sanitation jobs. The Government indicated that this practice consisted of mobilizing the population for work in the community interest and was based on section 35 of the Statutes of the Congolese Labour Party, but that it no longer exists and such tasks (weeding, sanitation work) are now undertaken voluntarily by associations and employees of the State and local communities.

The Committee notes that in its last report the Government indicates its intention of including, in the Labour Code currently being revised, a provision to establish the voluntary nature of sanitation work. The Committee asks the Government to provide a copy of the new provisions of the Labour Code once they are adopted.

3. *Article 2, paragraph 2(a).* The Committee has several times drawn the Government's attention to section 4 of Act No. 11-66 of 22 June 1966 establishing the National People's Army and section 1 of Act No. 16 of 27 August 1981 introducing compulsory national service. The former provides for active participation by the army in tasks of economic construction for effective production and the latter stipulates that national service, which comprises both military and civic service, enables every citizen to take part in the defence and construction of the nation.

The Committee drew the Government's attention to *Article 2, paragraph 2(a)*, of the Convention which provides that work or service exacted in virtue of compulsory military service laws is excluded from the scope of the Convention only when it is imposed for work of a purely military character. Work exacted from recruits as part of national service, including work related to national development, is not purely military in nature. The Committee referred in this context to paragraphs 24-33 and 49-62 of its General Survey of 1979 on the abolition of forced labour.

According to the Government, the practice of imposing on recruits work which is not purely military in nature has fallen into disuse. The Committee notes that, in its last report, the Government expressed its intention of repealing Act No. 16 of 1981 on compulsory national service.

The Committee hopes that the necessary steps will be taken to repeal the above Act in order to bring the national legislation into conformity with the Convention.

4. In its previous comments, the Committee referred to section 17 of Act No. 31-80 of 16 December 1980 on guidance for youth under which the party and mass organizations would gradually create all the conditions for the formation of youth brigades and the organization of youth workshops.

The Committee notes that, according to the Government, these practices no longer exist. It observes, however, that the abovementioned Act has not been repealed.

The Committee noted that a draft decree on voluntary work for young people was in the process of being approved, and requested specific information on the type of tasks performed, the number of persons concerned, the duration and conditions of their participation.

The Committee asks the Government to indicate the measures taken or envisaged to bring the national legislation into line with the Convention and to provide a copy of the decree on voluntary work for young people as soon as it is adopted, together with relevant information.

5. *Trafficking in persons.* The Committee notes the Government's statement that child trafficking exists between Benin and Congo for the purpose of forcing the children to work in Pointe-Noire in trading (fixed and itinerant) and domestic work. According to the Government, the receiving families force the children to work in unimaginable conditions: they have to work all day, are frequently beaten and subjected to all kinds of hardships. The Government has recognized that such acts are contrary to human rights and has taken a number of measures to curb child trafficking.

The Committee asks the Government to examine the situation of children working in Pointe-Noire in the light of the Convention and to provide full information on their working conditions, specifying their age, the circumstances in which this trafficking takes place and working conditions in Congo.

The Committee also asks the Government to indicate which provisions of the national legislation punish trafficking in people and what measures are taken to ensure that the penalties are strictly applied to those responsible for imposing forced labour.

6. The Committee notes the results of the Government's inquiry into traditional forms of slavery in the district of Ouesso. The Committee notes that, according to the abovementioned inquiry, no form of forced labour exists among pygmies and Bantus in the plantations of the North.

7. The Committee asks the Government to provide copies of the Penal Code, the Code of Penal Procedure and the Order regulating the operation of prisons and prison labour.

Côte d'Ivoire (ratification: 1960)

Article 1, paragraph 1, and Article 2, paragraphs 1 and 2(c), of the Convention

1. Since 1972, the Committee has been drawing the Government's attention to sections 24, 77, 81 and 82 of Decree No. 69-189 of 14 May 1969 (issued under sections 680 and 683 of the Criminal Procedure Code) which provide that prison labour may be hired to private individuals. The Committee has already recalled in numerous comments on this legislation that it is only when work is voluntarily accepted by prisoners and carried out in conditions similar to those of free employment relations (e.g. as to wages)

that prison work for a private enterprise or person may be regarded as compatible with the Convention.

The Committee noted the Government's statement that draft amendments to bring the abovementioned Decree into conformity with the provisions of the Convention had not yet been completed. The Committee requested the Government to provide information on any developments and any progress achieved in this regard.

In its latest report, the Government indicates that the new Constitution which devotes a section to human rights cannot maintain outdated provisions in the legislation. The Government has therefore decided to review all the texts containing provisions contrary to the spirit of the new Constitution. The Committee notes this statement and, since it has been making comments on the matter for a number of years, it hopes that the necessary measures will be adopted shortly and that the Government will be able to report on progress made in this matter.

2. In its last observation, the Committee referred to certain allegations concerning a widespread practice of migrant labourers, including children particularly from Mali and Burkina Faso, being forced to work on plantations against their will. The Committee requested the Government to supply information on this point.

The Committee notes the Government's indications in its report that in Côte d'Ivoire undertakings are small and use family labour and sometimes migrants from neighboring countries. These workers have ultimately established their own undertakings and, to develop them, they bring from their countries relatives and children whom they declare to be their families. This is how the recent practice of using child labour in Côte d'Ivoire has arisen, it has been aggravated by the principle of free circulation of goods and persons in the framework of ECOWAS and the hospitality of the Côte d'Ivoire which is a country of high immigration. The Government adds that Côte d'Ivoire is suffering this development but the real recruiters are not Ivorians. It indicates that in order to combat this scandalous and inhuman practice the Government has adopted specific, vigorous measures and actions such as: strengthening border controls; establishing a legal and institutional framework to combat trafficking of children; carrying out arrests, legal processes and criminal convictions for child traffickers in the courts; identifying children victims of trafficking and repatriating to their families and countries of origin; and carrying out public awareness measures. In addition, Côte d'Ivoire signed a bilateral cooperation agreement with Mali on 1 September 2000 to combat cross-border child trafficking.

The Committee notes the consolidated subregional project report of the International Programme on the Elimination of Child Labour (IPEC/OIT, 2001) entitled "Combating Trafficking in Children for Exploitation of their Labour in West and Central Africa". According to this report, the children work in mines and plantations or as domestic servants. Most of those working in plantations come from Mali and Burkina Faso. The study reports on organization of trafficking, recruitment of children by intermediaries acting individually or in organized groups (the report states that in Côte d'Ivoire two employment agencies are involved in trafficking of children). According to the report, the intermediaries specialized in the domestic employment sector are Ivorian or Ghanaian while those in the mining sector are Burkinabé and Malian.

According to the report, employers in Ivorian plantations pay 50,000 FCFA (70 dollars) per child (half for transport costs and half for the child while a mine owner pays 75,000 FCFA (105 dollars) per child (25,000 FCFA for transport costs and 50,000 for the child).

The Committee notes the information presented by Côte d'Ivoire to the Committee on the Rights of the Child (CRC/C/8/Add.41 of 27 April 2000) which states that the exploitation of child labour takes place also in the production of both goods and services: carpentry, catering, crafts, street trading, domestic work, engineering, mining, etc. The Government cites a study by a non-governmental organization, Defence for Children International, entitled "Child Labour in the Mines of Côte d'Ivoire", illustrated by the Tortiya and Issia mines which reveals that 1,150 children are working in the Issia gold mine and Tortiya diamond mine. This child labour involves long hours and night work in violation of both the Convention on the rights of the child and domestic legislation, in particular the Labour Code which restricts the child's working hours to eight hours a day and expressly prohibits night work (section 22.2). The situation is still worse in the case of girls, who are exploited sexually as well as economically (paragraphs 87 and 88). The report mentions the existence of child prostitution organized by networks and the fact that there are no specific legal provisions covering the sexual exploitation of children for commercial purposes.

The Committee notes the information in the December 2000 national report on monitoring the objectives of the World Summit for Children according to which 750 children work in the mines and around 15,000 children are victims of international trafficking, particularly from Mali towards Côte d'Ivoire.

The Committee notes from the various sources of information mentioned above that the Government is aware of the situation and that certain activities have been undertaken to combat child trafficking towards Côte d'Ivoire. The Committee notes that the new Constitution of 2000 lays down that forced labour is prohibited and punished by the law.

Article 25. Under *Article 25* of the Convention, the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

The Committee requests the Government to take the necessary action to sanction persons responsible for people trafficking for the purpose of labour exploitation and to communicate information on the number of legal procedures brought against those responsible and the sentences imposed.

The Committee requests the Government to supply a copy of the Code on the rights of the child, the report on the application of the agreement between Mali and Côte d'Ivoire, Act No. 88-686, the new Penal Code and the Penal Procedure Code.

Democratic Republic of the Congo (ratification: 1960)

The Committee notes the Government's response to its previous comments.

1. For several years the Committee has been requesting the Government to repeal or amend Act No. 76-011 of 21 May 1976 concerning national development efforts and its Implementing Order No. 00748/BCE/AGRI/76 of 11 June 1976 which are contrary to the Convention. The abovementioned act and its implementing order require, on pain of penal sanctions, every able-bodied adult person who is not already considered to be

making his contribution by reason of this employment (political representatives, wage earners and apprentices, public servants, tradesmen, members of the liberal professions, the clergy, students and pupils), to carry out agricultural work and other development work as decided by the Government.

In its latest report, the Government states that although they have not been repealed, Act No. 76-011 and its implementing legislation are not applied.

The Committee hopes that the Government will take the necessary measures for the repeal or amendment of the abovementioned Act so as to bring the legislation into conformity with the Convention.

2. In its previous reports, the Committee noted problems related to sections 18 to 21 of Legislative Ordinance No. 71/087 of 14 September 1971 on minimum personal contributions which provides for the imprisonment involving compulsory labour of tax defaulters by decision of the chief of the local community or the area commissioner as a means of recovering the minimum personal contributions.

The Committee noted the information reiterated by the Government that draft amendments to the provisions in question were under consideration.

The Committee expresses the firm hope that the Government will shortly take the necessary measures to ensure the observance of the Convention.

3. *Article 2, paragraph 2(c), of the Convention.* The Committee drew the Government's attention to Ordinance No. 15/APAJ of 20 January 1938 respecting the prison system in native districts which allows work to be exacted from detainees who have not been convicted.

In its latest report, the Government indicates that the abovementioned ordinance has been repealed by one of the sections of Ordinance No. 344 of 17 September 1965 governing prison labour. The Committee notes, however, that Ordinance No. 15/APAJ of 1938 is not listed among the legislation which is repealed by section 108 of Ordinance No. 344.

The Committee also noted the information supplied by the Government to the effect that the Supreme National Conference has decided to reform the penitentiary system and repeal certain provisions of the law. It expresses the strong hope that measures will be taken in the near future to bring national legislation into conformity with the Convention and that the Government will report on progress made in this regard.

4. *Article 25.* In its earlier comments, the Committee stressed the need to include a provision in national legislation establishing penal sanctions for persons who unlawfully exact forced or compulsory labour, in accordance with *Article 25* of the Convention.

In its latest report, the Government reaffirms its intention to insert into the 1967 Labour Code, which is undergoing revision, provisions laying down effective penal sanctions for persons exacting forced labour.

The Committee expresses the strong hope that the legislation will soon be brought into conformity with the requirements of *Article 25* of the Convention in the near future.

5. *Article 2, paragraph 2(b).* The Committee notes the prohibition of forced or compulsory labour provided in section 2 of the Labour Code of 9 August 1967. Section 2

also provides exceptions to this prohibition, including "any work or service forming part of the legal civic obligations in the public interest or that the community concerned has imposed of its own free will, such as the construction or maintenance of communication routes, the reconstruction and cleaning of dwelling places, delivery of supplies, land development or construction for economic, social or cultural purposes". This exception allows the authorities to force persons to perform general or local public works.

Article 2, paragraph 2(b), of the Convention exempts from its provisions any work or service which forms part of normal civil obligations. Referring to paragraph 34 of its 1979 General Survey on the abolition of forced or compulsory labour, the Committee recalls, however, that this exception cannot be invoked to justify recourse to forms of compulsory service which are contrary to other specific provisions of the Convention. The work provided under section 2 of the Labour Code allowing the exaction of public works of general interest falls outside the framework provided by the exception in *Article 2, paragraph 2(b)*, and are contrary to the Convention, in the light also of the specific conditions laid down in *Article 2, paragraph 2(a), (d) and (e)*.

The Committee requests the Government to indicate the measures taken or contemplated to ensure compliance with the Convention on this point.

6. The Committee notes the concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add.153, paragraph 66) according to which a large number of children work in dangerous places, notably in the Kasaï mines and in certain locations in Lubumbashi in conditions which are described as inhuman by the Special Rapporteur of the Commission on Human Rights (E/CN.4/2001/40, paragraph 105). Furthermore, according to section 32 of Order No. 68/13 of 17 May 1968, such work is prohibited for children under 18 years of age.

The Committee observes that the conditions described as inhuman bring into question the validity of the child's agreement to carry out this work.

The Committee notes, furthermore, that the State or other protagonists in the armed conflict recruit children to use as soldiers, including children under 15 years of age (Committee on the Rights of the Child, CRC/C/15/Add.153 of 9 July 2001, paragraph 64).

Referring to the abovementioned observations of the Committee on the Rights of the Child and to the concluding observations of the Committee on the Elimination of Discrimination Against Women (A/55/38, paragraph 26), the Committee notes also the information concerning the sale, trade and exploitation for pornographic purposes of girls and boys as well as cases of prostitution of girls.

The Committee requests the Government to examine the situation of children working in mines, child soldiers and cases of exploitation of children for pornographic purposes in the light of the Convention and to communicate any information on the working conditions of these children. The Committee also requests the Government to indicate the national provisions punishing the trafficking in persons.

7. *Possibility for judges to resign.* The Committee notes that the status of judges is governed by Legislative Ordinance No. 88-056 of 29 September 1988 of which section 38 provides that judges' resignations must be accepted by the President of the Republic.

The Committee requests the Government to supply further information in this regard, particularly on the possibility for the President of refusing to accept the resignation and in what circumstances.

8. The Committee requests the Government to supply a copy of the Penal Code, the Penal Procedure Code and the Legislative Ordinance on the suspension of compulsory civic service as well as the legislation on vagrancy and begging.

Denmark (ratification: 1932)

The Committee notes with satisfaction that sections 198 and 199 of the Danish Penal Code, under which, in certain cases of habitual idleness, a person able to work could be directed by the police to employment and punished for vagrancy, and which were no longer applied in practice, were repealed by Act No. 141 of 17 March 1999.

France (ratification: 1937)

The Committee notes the Government's reply to its previous observations. It also notes the report of the Commission of Inquiry on conditions of detention in prison establishments in France, which was set up under a resolution adopted by the Senate on 10 February 2000.

Article 1, paragraph 1, and Article 2, paragraphs 1 and 2(c), of the Convention. Prisoners working for private enterprises. The Committee recalls that, in accordance with section D.103(1) of the Code of Criminal Procedure, work in prison establishments is performed principally under one of the following three forms: general service work (intended to discharge the various types of work or tasks necessary for the operation of the prison establishment); the hiring of prison labour; and work for the Industrial Board of Prison Establishments (RIEP). Where labour is hired, prisoners work for a private enterprise in the event that the hiring enterprise is in the private sector, which is most frequently the case. Furthermore, in the few cases in which the prison establishment itself is administered by a private enterprise, detainees assigned to general tasks in the prison establishment are thereby in the service of a private enterprise.

Free consent and conditions of employment approximating a free labour relationship. With reference to its general observation under the Convention, the Committee recalls that since the adoption of the Act of 22 June 1987, convicted persons are no longer in principle compelled to work. Under section D.99(1) of the Code of Criminal Procedure:

> Detainees, irrespective of their penal category, may request that work be proposed to them.

Under the terms of section D.102(2):

> The organization, methods and remuneration of work shall be as close as possible to those of external occupational activities with a view, inter alia, to preparing detainees for the normal conditions of free work.

According to section D.106(2):

> Such remuneration shall be subject to employers' and workers' contributions under the terms established, for sickness, maternity and old-age insurance, by sections R.381-97 to R.318-109 of the Code of Social Security.

Prisoners thus benefit from social security in the same way as other workers. Reasonable deductions from remuneration are furthermore envisaged in sections D.112 and D.113 to share in the costs of maintenance, indemnify civil parties and for alimony payments.

According to section D.108:

> Working time by day and by week, determined by the internal rules of the establishment, shall approximate the hours of work in the region or in the type of work concerned; in no case may they be higher. Observance of weekly rest and national holidays shall be ensured; working schedules shall foresee the time required for rest, meals, exercise and educational and leisure activities.

The Committee also notes with interest, further to its previous comments on this point, that under section D.109 of the Code of Criminal Procedure, as amended by Decree No. 98-1099 of 8 December 1998:

> The safety and health measures provided for in Book II, Title III of the Labour Code and the decrees issues thereunder … shall be applicable to work performed by detainees within and outside prison establishments …

and the intervention of the labour inspection services is envisaged in this respect by section D.109-1 of the Code of Criminal Procedure, incorporated by the above Decree No. 98-1099, and regulated by a joint circular of the Ministries of Justice and of Employment and Solidarity of 16 July 1999, which was attached to the Government's report.

Finally, under section D.110:

> The right to compensation for employment accidents and occupational diseases shall be recognized for detainees performing work, in accordance with the special scheme established by Decree No. 49-1585 of 10 December 1949 (codified text, cf. sections D.412-36 to D.412-71 of the Code of Social Security) respecting the application to detainees of Act No. 46-2426 of 30 October 1946 on the prevention and compensation of employment accidents and occupational diseases.

What remains to be done. It appears from the above provisions that the guiding principles of French legislation governing prison work respond on a number of essential points, and in an exemplary fashion, to the criteria set forth by the Committee so that work performed by a prisoner for a private enterprise can be assimilated to a free labour relationship and not come under the prohibitions set out in *Article 1, paragraph 1, and Article 2, paragraphs 1 and 2(c),* of the Convention. However, in certain respects, already noted in the Committee's previous comments, the legislative provisions governing prison work still require amendments to this effect: firstly, with regard to the elimination of "the menace of any penalty", within the meaning of *Article 2, paragraph 1,* of the Convention, in the event of refusal to work; and secondly, amendments are necessary to ensure that the relationship between a prisoner working for a private enterprise and her or his employer is always covered by an employment contract, and not only in the case of certain categories of detainees. Furthermore, with reference also to its previous comments concerning remuneration for work and safety and health conditions, the Committee notes that the report of the Commission of Inquiry on the conditions of detention in prison establishments in France found a number of serious deficiencies in practice, some of which have a bearing on the observance of conditions under which the work of a prisoner can be assimilated to a free labour relationship. In all these respects, the Committee notes with interest the Government's statement in its report that the Prime Minister committed the Government in November 2000 to two series of measures: a vast programme for the renovation of prisons with a view to a substantial improvement in the conditions of detention of prisoners, and the formulation of major legislation on the discharge of sentences. The Committee hopes that account will be taken in this exercise of the points mentioned above, which it develops in greater detail in a request addressed directly to the Government.

Germany (ratification: 1956)

Further to its earlier observations on the observance of the Convention in Germany, the Committee notes the Government's reply to the 1998 general observation under the Convention.

Articles 1(1) and 2(1) and (2)(c) of the Convention.
Prisoners working for private enterprises

1. The Committee notes the Government's indication in its report that there is no penal institution administered as a whole by a commercial or other enterprise in the country, and that such practice would be inadmissible under the national Constitution. The Government reports on two distinct possibilities of prisoners performing work for private enterprises: (a) outside employment in a free employment relationship ("Freigang"); (b) compulsory work in a workshop run by a private enterprise.

A. *Outside employment in a free employment relationship*

2. Under section 39(1) of the Act on the execution of sentences:

> The prisoner is to be permitted to take up work or further vocational training on the basis of a free employment relationship outside the [penal] institution, if this … serves the objective of transmitting, preserving or furthering capacities for a gainful activity after release and is not contrary to overbearing reasons of the execution [of the sentence].

The Government indicates in its report that prison authorities are obliged to promote free employment relationships; these come into being only at the prisoner's request; the prisoner has a normal labour contract, comes under the same legal provisions as workers and trainees in freedom, receives wages established by collective agreement, and is covered by the social security systems (pension, health, accident and unemployment insurances) to the same extent as workers in freedom. A contribution for detention costs may be levied, the amount of which depends on the board and lodging provided and currently may not exceed DM660.20.

3. The Committee notes these indications with interest. They set out the very model described by the Committee in paragraph 97 of its 1979 General Survey, of a system of private employment of prisoners that does not fall within the scope of the Convention. However, the conditions of a free employment relationship do not apply to

the second type of private use of prison labour that is still being practised under national law, as recalled below.

B. Compulsory work in a privately run workshop

4. In comments made for a great number of years, the Committee has noted that under the legislation in force, prisoners may be obliged to work in workshops run by private enterprises within state prisons. As the Committee noted in paragraphs 96 and 100 of its general report of last year, the practice followed in this regard in Germany corresponds exactly to the description given in the ILO Memorandum of 1931 of the "special contract system", a system in which the labour of prisoners is hired to private contractors. The fact that prisoners – now as then – remain at all times under the authority and control of the prison administration does not detract from the fact that they are "hired to" a private enterprise – a practice designated in *Article 2(2)(c) of the Convention* as being incompatible with this basic human rights instrument.

5. In 1978, the Committee noted with interest the adoption of the Act on the Execution of Sentences, of 13 March 1976. Under section 41(3) of the Act, employment in a workshop run by a private enterprise is to depend on the prisoner's consent, which may be withdrawn later, subject to six weeks' notice if no other prisoner can fill the vacancy earlier. However, the consent requirement of section 41(3), which was to enter into force on 1 January 1982, was suspended by the "Second Act to improve the budget structure" of 22 December 1981, and has remained a dead letter ever since.

6. Further provisions in the Act on the execution of sentences were to progressively raise the existing conditions of employment of prisoners, including those working in private workshops, by reference to those of a free employment relationship. Thus, sections 191 to 193 of the Act make provision for the extension of sickness and old-age insurance to prisoners, and the Government reported from 1979 onwards on draft legislation to this end. However, although such social insurance coverage had already been effectively extended to prisoners under Prussian legislation referred to in the ILO Memorandum of 1931 on prison labour, no provisions to this effect are now in force in any part of Germany.

7. As regards the wages earned by prisoners working in private workshops, the 1976 Act on the Execution of Sentences recognized all prisoners' right to wages, but established the initial level at only 5 per cent of the average wage of workers and employees covered by the old-age insurance scheme, with a first increase of this percentage to be envisaged on 31 December 1980.

Over 20 years later, the wage rate still stands at 5 per cent of the average, or less: under section 45, paragraph 2 of the Act "the remuneration may be graduated according to the performance of the prisoner and the kind of work. Less than 75 per cent of the benchmark remuneration [that is, less than 3.75 per cent of the average outside wage] may be paid only if the performance of the prisoner does not meet the minimum requirements".

8. In its previous observation, the Committee noted a decision of the Federal Constitutional Court of 1 July 1998 which found the existing level of prisoners' remuneration incompatible with the principle of rehabilitation and instructed the legislature to set new rules in conformity with the Constitution by 31 December 2000 at the latest. According to the Government's report received in October 2000, the

Government "intended to submit soon a draft law to parliamentary procedure". No change in the wage level appears to have been legislated by 31 December 2000, nor reported since.

9. The Committee notes with concern that 45 years after ratification of this basic human rights Convention, prisoners working for private enterprises in Germany fall into two categories, with some enjoying the full benefits of a free employment relationship, while the others are hired to those who use their labour without their consent and in conditions bearing no resemblance whatsoever to the free labour market. The Committee must once again express the hope that the Government will at last take the required measures to bring the legislation and practice in this regard into conformity with *Article 1(1)*, read together with *Article 2(1) and 2(c)* of the Convention.

Guatemala (ratification: 1989)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation on the following points:

> 1. The Committee referred in its previous observation to the recommendation of the committee set up by the Governing Body to examine a representation against Guatemala under article 24 of the Constitution. That committee recommended the repeal of Legislative Decree No. 19-86, which provided for the compulsory enlistment of hundreds of thousands of people in so-called Civil Self-Defence Patrols (PACs) and Voluntary Civil Defence Committees (CVDCs).
>
> 2. Referring also to its observation under the Abolition of Forced Labour Convention, 1957 (No. 105), the Committee notes with satisfaction the repeal of Decree No. 19-86 by Decree No. 143-96, which came into force on 30 December 1996.
>
> 3. The Committee also notes with interest that the abovementioned civil defence committees have been demobilized and disarmed, under international control, in the framework of the peace agreements signed by the Government. From this point of view, the Committee therefore notes that the Government has taken measures to give effect to the conclusions of the Governing Body at its 267th Session in relation to the abovementioned representation.
>
> 4. The Committee notes that the Government's reports do not contain any information with regard to the application of *Article 25 of the Convention*. The Committee notes in this respect that the Governing Body stated in its conclusions that "persons accused of having exacted forced labour have benefited from impunity in cases where the Attorney-General of the Republic of Guatemala has issued a decision concerning their responsibility and that the appropriate judicial action has not been taken against them". The Governing Body therefore urged the Government "to ensure the rapidity of the judicial processes and inquiries undertaken concerning the exaction of compulsory labour and to guarantee the imposition of penalties and their strict enforcement". The Committee believes that it is necessary to recall once again that in accordance with *Article 25* of the Convention, the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying the Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced. The Committee therefore requests the Government to provide information in its next report on the measures which it has taken to give effect to the above recommendations so that it can examine the manner in which these points have been followed up.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Haiti (ratification: 1958)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> The Committee refers to its previous comments in regard to the employment of children as domestic servants, known as "restavek". It recalls that under section IX of the Labour Code (L.S. 1984-Haiti 1) on children employed in service, the Directorate of the Social Welfare and Research Institution (IBESR), which is represented in every regional office of the Ministry of Social Affairs, plays a key role by: issuing the permit needed for any person to take a child into his service; drawing up a report on any act of violence committed on the person of the child; arranging for visits to households in which there are children in service in order to inquire about their living conditions; requiring the labour court to impose the fines provided for any breach of the provisions set out in the section; and regulating in detail the obligations of employers of children in service and the rights of the children as well as the protection which must be accorded to them. In towns where there is no regional office of the Ministry of Social Affairs, the municipal administration supervises execution of the provisions of this chapter on children in service and issues the authorizations and certificates required.
>
> In its previous observation, the Committee noted the Government's commitment to communicate statistics in respect of the activities of the IBESR, the municipal authorities and the labour courts, and to conduct an exhaustive study into general working conditions. The Committee notes that the Government's report contains no information on these points and takes due note of the Government's wish to obtain the support, aid and cooperation of the ILO.
>
> On this matter, the Committee notes with interest that a project of the ILO's International Programme on the Elimination of Child Labour (IPEC) has just been established in Haiti in order to assist the Government in combating effectively child labour in general, and the "restavek" system in particular. The Committee hopes that the Government will send a copy of the national plan of action to fight child domestic work which will be adopted in the framework of this project, as well as any relevant information on developments noted, results obtained, statistical data established and legislative or regulatory measures taken.
>
> Furthermore, the Committee hopes that the Government will specify the amount of the fines that can be imposed under the provisions of section IX of the Labour Code, as amended, and that it will provide any indications it deems useful concerning the issue of whether these amounts constitute, under *Article 25 of the Convention*, "really adequate" penalties.
>
> Finally, the Committee trusts that the Government will supply detailed information on the practical application of Chapter IX of the Labour Code, including statistics on the number of permits issued by the IBESR and by the municipal administrations in regard to taking children into domestic service, on the visits and inquiries made in households where there are children in service, on breaches to the provisions of section IX noted, on the reports prepared and inquiries addressed to the labour court by the IBESR, as well as the fines imposed and damages awarded in application of these provisions.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Japan (ratification: 1932)

Wartime "comfort women" and industrial forced labour

1. Further to its previous observations under the Convention, the Committee has noted a communication of the All Japan Shipbuilding and Engineering Union, received by the ILO on 6 June 2001, a copy of which was transmitted to the Government on 26 June 2001, as well as a letter dated 9 October 2001 from the Government, referring to its views concerning the Union's communication.

2. The Committee notes that in its communication of June 2001, the All Japan Shipbuilding and Engineering Union indicates that, with regard to war-related compensation, the position of the Japanese Government is that a treaty had put an end to the right to demand compensation and the right to diplomatic protection at the state level but not the right of individuals to damages. The Government is stated to have made this position clear on many occasions, as shown by the examples quoted below in the terms of the Union's communication.

> Since Japan lacked diplomatic relations with the Republic of Korea (South Korea) and the People's Republic of China for a long period after the end of WWII, it was virtually impossible for individual victims in these countries to seek redress and payment of overdue wages from Japan and Japanese firms. As for the Democratic People's Republic of Korea (North Korea), Japan has yet to normalize bilateral relations even today.
>
> In 1992, the Japanese government for the first time acknowledged that these individual victims still hold the right to seek damages. Shunji Yanai, then chief of the Foreign Ministry's Treaties Bureau, told an Upper House Budget Committee session on Aug. 27 that the Japan-South Korea Basic Treaty of 1965 had not deprived individual victims of their right to seek damages in domestic legal terms. "(The treaty) only prevents Japanese and South Korean governments from taking up issues as exercise of their diplomatic rights," Yanai told the Diet session. The turnaround in government position prompted many victims to take legal action with Japanese courts.
>
> In other words, the Japanese government admitted that individual (legal) right to seek compensation did not become void due to a bilateral treaty for a decade. Before Yanai, the government officials made a statement to that effect twice as follows.
>
> 1. The Japanese Government's Statement in Atomic Bomb Victims Lawsuit (Final Judgement in 1963)
>
> > "5. Waiver of the Right to Damage under the Treaty of Peace with Japan.
> >
> > The item (a) of the article 19 in the San Francisco Treaty does not mean that the country of Japan has given up the right of individual Japanese people to demand compensation for the damages from Truman or the country of the United States of America."
>
> ...
>
> (Article 19(a) of the Treaty of Peace with Japan, signed in San Francisco on 8 September 1951, is quoted in the Union's communication in the following terms:)
>
> *Article 19*
>
> > (a) Japan waives all claims of Japan and its nationals against the Allied Powers and their nationals arising out of the war or out of actions taken because of the existence of a state of war, and waives all claims arising from the presence, operations or actions of forces or authorities of any of the Allied Powers in Japanese territory prior to the coming into force of the present Treaty.

> 2. Government Statement for the Siberian Internee Compensation Lawsuit (Final Judgement in 1989)
>
> > "3. Waiver of the Right to Damages Clause 6 item 2 under the Joint Declaration of Japan and Soviet
> >
> > The plaintiff insist that Japan waived all claims to Soviet legally or in substance as a result of the Joint Declaration of Japan and Soviet. However, the right Japan waived under the Clause 6 item 2 are claims and the right of diplomatic protection the state of Japan had, but not the claims of individual Japanese people. When we say the right of diplomatic protection, it means the internationally acknowledged right of state to seek the responsibility of a foreign country for the damages Japanese people suffered in the foreign territory arising out of violation of the international laws on the side of such foreign country.
> >
> > As stated before, Japan did not give up any right belonging to individual Japanese nationals under the Joint Declaration of Japan and Soviet."

In its communication of June 2001, the All Japan Shipbuilding and Engineering Union supplied further information and comments on the settlement reached in the Hanaoka court case, referred to by the Committee in point 12 of its previous observation.

3. By letter dated 9 October 2001, the Government of Japan referred to its views concerning the communication dated 6 June 2001 of the All Japan Shipbuilding and Engineering Union in the following terms.

> The Government of Japan is now making efforts to prepare its comments on the matters raised therein and wishes to express its intention to submit the comments to the ILO before the session of the Committee of Experts on the Application of Conventions and Recommendations to be held in 2002. This is due to the fact that more time is needed to allow the Government to gather sufficient informations on the basis of which it will examine the issue.

The Committee takes due note of these indications. In its previous observation, it had noted that there were still a number of claims by former prisoners and others pending in different instances, and in view of the age of the victims and the rapid passage of time, it had hoped that the Government would be able to respond to claims of these persons in a satisfactory way. One year later, the Committee hopes that the Government will be in a position to supply particulars to the Conference at its 90th Session in 2002, as regards both its comments on the matters raised in the communication of the All Japan Shipbuilding and Engineering Union, and action taken to respond to the claims of wartime "comfort women" and industrial forced labour.

Kenya (ratification: 1964)

The Committee has noted the information provided by the Government in reply to its earlier comments.

Over a number of years the Committee has been referring to sections 13 to 18 of the Chief's Authority Act (Cap. 128), according to which able-bodied male persons between 18 and 45 years of age may be required to perform any work or service in connection with the conservation of natural resources for up to 60 days in any year. On many occasions it expressed the hope that these sections would be either repealed or amended so as to give effect to the Convention.

The Committee notes that the Chief's Authority Act has not yet been repealed, and the amendments introduced by Act No. 10 of 1997 not only did not bring the legislation into compliance with the Convention, but even raised the age limit for call-up for compulsory labour to 50 years. In its latest report, the Government indicates that a comprehensive labour law revision project will be undertaken soon in consultation with the social partners and with the technical assistance of the ILO, and that the labour law reform will integrate amendments/repeals requested by the Committee.

The Committee trusts that the necessary measures will be taken without further delay to bring the legislation into conformity with the Convention, and that the Government will supply a copy of the amendments, as soon as they are adopted.

Liberia (ratification: 1931)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following points:

> 1. In its previous observation, the Committee referred to a communication of the International Confederation of Free Trade Unions, dated 22 October 1998, by which a report on forced child labour in south-eastern Liberia was sent. That report, dated September 1998, had been prepared by Focus and the Justice and Peace Commission (JPC), two local organizations.
>
> The Committee noted the Government's comments on that communication. It noted the report of the special investigation committee sent by the Government in May 1998 to investigate alleged forced labour in the south-eastern region. It noted that the special investigation committee did not find or establish any conclusive or physical evidence to confirm acts of forced labour in the region. The Committee however observes that the special investigation committee recommended in its report that a national committee be established to trace and reunite displaced women and children that were taken captive during the war and also that a committee be sent to investigate allegations of forced labour and hostage situations particularly in some parts of Grand Kru and Nimba Country. The investigation committee further recommended that, in order to enhance the National Reconciliation and Reunification Programmes, "local authorities should be directed to encourage their citizens to report any acts of alleged forced labour, intimidation, harassment, maltreatment for appropriate investigation and corrective measures".
>
> In their report, Focus and JPC found that the case of forced labour was "a spillover of the gross abuses that characterized the civil war" and that it was a common practice of ex-combatants (mainly former commanders) of former warring factions who chose to take advantage of the extremely difficult economic situation in the region. The report stated that there are practices of exploitative and forced labour and captivity taking place in that part of the country, chiefly in the Government Camp area in Sinoe Country. The report also mentioned chief Solomon Moses (Chief Solo) in Sinoe Country and Chief Gonda, in Grand Gedeh Country, as alleged perpetrators, both of them being heads of Joint Security Forces. It mentioned the difficult situation of socially abandoned children who had to fend for themselves and orphans who, although in the care of some adult, "due to financial difficulties were made to perform tasks against their will" so as to "raise funds for their support". The Committee notes that in their recommendations, Focus and JPC urge the Government to address the plight of children in the south-east, especially that of children held hostage by adults and used as a source of forced and captive labour.
>
> The Committee notes that both reports found that the south-eastern part of the country was in a grave humanitarian crisis and an extreme state of poverty and that any reported situations of exploitation were due to the consequences of the war. It further notes from the

Government's latest report that the region is cut off to a very large extent from the rest of the country because of the bad state of the roads, that the limited resources available do not allow for the immediate building of the needed hospitals and schools and that because of the economic situation in the region, there are hardly any alternatives to farming, small-scale mining and other activities which require massive and cheap labour.

The Committee understands from the documents before it that the Government as well as Focus and JPC have independently sent teams to investigate the situation and report on it. It hopes that the Government will encourage joint efforts and cooperation between governmental bodies and non-governmental organizations at all levels with a view to the effective elimination of all forms of compulsory labour, including that of children, and that the Government will supply full information on measures taken to this end, as well as on action taken on the following recommendations of the special investigation committee:

(a) the establishment of a national committee to trace and reunite displaced women and children taken captive during the war;

(b) the sending of a committee to investigate allegations of forced labour and hostage situations particularly in Grand Kru and Nimba Country;

(c) directing local authorities to encourage the citizens to report any acts of alleged forced labour, intimidation, harassment, maltreatment, for appropriate investigation and corrective measures, in the framework of the National Reconciliation and Reunification Programmes.

The Committee furthermore hopes that the Government will take specific action to investigate the situation in the south-east as regards practices of forced labour, including allegations that children are held hostage by adults as captive labour, and more particularly the allegations that forced labour was being imposed in the Government Camp area in Sinoe Country and by heads of Joint Security Forces in Sinoe Country and Grand Gedeh Country. The Committee hopes that the Government will supply full information on the action taken and the results.

2. *Article 25 of the Convention.* The Committee recalls that under *Article 25* of the Convention, the illegal exaction of forced labour shall be punishable as a penal offence and it shall be an obligation on the State to ensure that the penalties imposed are really adequate and are strictly enforced. It notes from the Government's latest report that the use of forced or compulsory labour is to be held a crime. The Committee hopes that the necessary action to give effect to *Article 25* of the Convention will be completed in the near future and that the Government will send the text of the Act as soon as it is adopted.

The Committee is addressing a direct request to the Government on other points.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Madagascar (ratification: 1960)

1. *Prison labour.* For several years the Committee has drawn the Government's attention to Decree No. 59-121 of 27 October 1959 (amended by Decree No. 63-167 of 6 March 1963) to establish the organization of the prison services, under which prison labour may be hired to private undertakings and prison work may be imposed on persons detained pending trial. The Committee requested the Government to repeal or to amend the legislation in question so as to bring it into conformity with the Convention. In the Government's previous reports, the Committee noted with interest the renewed statements to the effect that the hiring of prison labour had been abolished by Circular No. 10-MJ/DIR/CAB/C of 1 July 1970 and that people detained pending trial were no

longer forced to undertake prison labour. The Committee also noted the repeated information provided by the Government according to which the revision of Decree No. 59-121 was being studied. The Government indicated that the hiring of prison labour was still justified by the general economic recession prevailing in the country, since the administration has only a limited budget available which does not allow it to guarantee the vital minimum (food and shelter) for the prison population.

The Committee recalled that under *Article 2, paragraph 2(c), of the Convention*, a prisoner shall not be hired or placed at the disposal of private individuals, companies or associations even if these are entrusted with carrying out public works. The Committee also referred the Government to the explanations provided in paragraphs 97-101 of its 1979 General Survey on the abolition of forced labour.

The Committee observes that the last report of the Government does not contain information on this question.

The Committee notes that a week of sensitization on the ILO Declaration on Fundamental Principles and Rights at Work, and more particularly on the prohibition of forced labour, was organized from 7 to 13 October 2001 in Antananarivo with assistance from the ILO, and that a national survey on the reality of forced labour in Madagascar is under way. In the framework of this programme, it is planned to examine with the relevant ministries the follow-up to the observations of the Committee.

The Committee hopes that the Government will take the necessary measures to bring the legislation into conformity with the Convention, in particular by prohibiting the hiring of prison labour to private contractors and the imposition of prison labour on persons detained pending trial.

2. *National service*. The Committee notes the information supplied by the Government in its report on the points raised by the Committee concerning national service. The Committee notes that Act No. 68-018 has been repealed by Act No. 94-018 and that Decree No. 92.353 has also been repealed by Act No. 94-033. The Committee requests the Government to supply a copy of the repealing Acts.

Concerning Ordinance No. 78-002 of 16 February 1978 on the general principles of national service, which defines national service as the compulsory participation of young Malagasies in national defence and in the economic and social development of the country, the Committee noted the information provided by the Government, according to which the political and social context has changed considerably since 1978 and, consequently, Ordinance No. 78-002 of 16 February 1978 to introduce national service has been rendered obsolete.

In its last report the Government indicates that it is considering the revision of Ordinance No. 78-002.

The Committee recalls once again that forcing young people to participate in development work as part of compulsory military service – or as an alternative thereto – is incompatible with the forced labour Convention. The Committee again expresses the hope that the Government will take the necessary measures to bring the legislation into conformity with the Convention, in particular by ensuring that young boys and young girls participate in national service on a voluntary basis and that the service required under the military service laws is of a purely military character.

Mali (ratification: 1960)

1. *Forced labour and trafficking of children.* In its previous direct request, the Committee requested the Government to provide information on the measures taken in relation to the trafficking of children and their exploitation at work.

The Committee notes the information provided by the Government in its report to the effect that the report issued in October 1999 by the National Review Commission established to "implement a national policy to combat the trafficking of children" noted the existence of the trafficking of children who are nationals of Mali, particularly in the frontier zone between Mali and Côte d'Ivoire. The Government also refers to a 1998 study by UNICEF, carried out in Côte d'Ivoire, which reveals that between 10,000 and 15,000 children from Mali had arrived in Côte d'Ivoire as a result of "trans-boundary trafficking organized in Africa". According to this study, girls work in domestic service and boys in cotton plantations, mines, the construction sector and other manual work. Children working in plantations suffer poisoning by chemical products and, among other problems, diseases of the skin and malnutrition.

The Committee notes the synthesis report of the subregional project of the International Programme on the Elimination of Child Labour (IPEC/ILO, 2001), on "Combating Trafficking in Children for Exploitation of their Labour in Central and West Africa". According to this report, "structured networks" organize the trafficking of children from Mali to destinations which include France.

The Committee also notes the information provided by Anti-Slavery International to the Working Group on Contemporary Forms of Slavery of the United Nations Human Rights Commission. The majority of children subject to trafficking are boys from Ségou, Sikasso and Mopti. Networks for the trafficking of children towards Côte d'Ivoire emerged in the 1990s as a result of the demand for cheap labour in cotton plantations. Most of the children are recruited through intermediaries and sold to the owners of plantations, while in other cases their parents or friends promise them work, or through family networks, as a result of which they work in plantations, mines, on construction sites or perform any type of manual work and end up as slaves. As the traffickers frequently come from the same region as the children whom they recruit, it is easier to hide this practice, since they may know the families and the region. If they are arrested by the frontier police, parents often defend the trafficking and say that permission has been given for the child to cross the border to work. Most of them believe the promises of the traffickers that the children will find well-paid work. According to a study undertaken in Mali, children earn between 5,000 and 10,000 CFA francs (5 to 10 pounds) a month but, in practice, they do not receive any money because their wage is paid to the intermediary, or their work is used to reimburse the cost of their transport and maintenance and they end up working for years without being paid. According to a study carried out in Côte d'Ivoire, employers pay intermediaries between 50,000 and 75,000 CFA francs. The intermediaries also earn money by selling the children to employers. These children, completely isolated from their family, communities and culture, are under the control of traffickers and the employer and are vulnerable to all forms of exploitation and abuse. Their working conditions are minimal, without any consideration for safety standards. The history of "I.D." is typical of the suffering of these children. Now aged 15, he returned to Mali after spending two years working, as a result of being trafficked, in a coffee and yam plantation in Bouafle in Côte d'Ivoire. "Our day started at

5 o'clock. We had to walk six kilometres barefooted to get to the fields over stony and muddy land, carrying heavy loads on our heads. When we reached the fields, we were soaked and exhausted. The foreman showed us the part of the plantation that had to be finished before the end of the day. We were terrified of what he would do to us if we did not manage to finish the work. This threat, and the fear of being denied food if we could not finish in time, forced us to work quickly. The work was hard and being bent over all day gave us pain in our backs. If were sick and could not work, we were afraid of being tortured to death. One day, I saw two of my companions tortured because they had tried to run away. They fell sick and died." The urgency of the problem was recognized by the governments concerned at a meeting organized by UNICEF and the ILO in Libreville in Gabon from 22 to 24 February 2000.

The Committee notes the final observations of the Committee on the Rights of the Child (CRC/C/15/Add.113, paragraphs 32-33), which expresses its concern at the situation of children employed in domestic work and in agriculture, children working in agriculture and mines, the rise in the sale and trafficking of children and the increase in the phenomenon of child beggars.

The Committee notes that, according to the national report of December 2000 on the follow-up to the World Summit for Children, an emergency national action plan to combat the trafficking of children for the purposes of exploitation at work was implemented and a cooperation agreement between Mali and Côte d'Ivoire was signed on 1 September 2000, establishing procedures for the repatriation and integration of child victims of trafficking. Collaboration between the authorities of Mali and of Côte d'Ivoire occurs through various structures, such as the frontier police, Interpol and the territorial and security authorities. The Committee notes that over 300 children were repatriated from Côte d'Ivoire in 1999-2000.

Article 25 of the Convention. Under the terms of *Article 25* of the Convention, the illegal exaction of forced labour shall be punishable as a penal offence, and any Member ratifying the Convention is under the obligation to ensure that the penalties imposed by law are really adequate and are strictly enforced. The Committee notes that, according to the Government's report, no action has been taken with a view to punishing the persons responsible for the trafficking of children for the purposes of exploitation through work.

The Committee is aware of information that a specific Act respecting the trade in persons has recently been adopted, as well as a new Penal Code. The Committee requests the Government to provide copies of these texts and to furnish information on the judicial action taken against those responsible for trafficking (employers and intermediaries) and the penalties imposed.

The Committee requests the Government to provide information on the situation of beggar children (the "garibus" pupils) and on any measure taken to combat this phenomenon.

The Committee also requests the Government to provide information on the evaluation of the National Action Plan which was completed in 2000 and on the National Emergency Action Plan to combat the trafficking of children for the purposes of exploitation through work, covering the period 2000-01, and to provide a copy of the new National Action Plan, 2001-2009.

The Committee notes that Mali has ratified the Worst Forms of Child Labour Convention, 1999 (No. 182).

2. *Article 2, paragraph 2(a).* In its previous comments, the Committee referred to section L.6.2 of the Labour Code, which provides that the term "compulsory labour" does not include work required in the public interest by legislative provisions on the organization of defence, the creation of a national service or participation in development. The Committee also noted that, under Act No. 87-48 AN-RM respecting the requisitioning of persons and property (section 25), requisitioning may take place outside situations of mobilization or wartime. Section 1 of the Act provides that its objective is to determine the conditions governing the right of requisitioning in the cases envisaged by the Acts respecting the general organization of defence and states of emergency. The Committee had recalled that the exception provided for in *Article 2, paragraph 2(a),* of the Convention only covers work of a purely military character and that the use of compulsory labour for the purposes of development is also contrary to Article 1(a) of the Abolition of Forced Labour Convention, 1957 (No. 105), which has also been ratified by Mali.

The Committee notes from the indications provided by the Government in its report that the provisions of section L.6.2 have never been applied.

The Committee requests the Government to provide information on the measures taken to bring the national legislation into conformity with the forced labour Conventions, particularly by abolishing recourse to compulsory labour for purposes of development, and by specifying that requisitioning is reserved for emergency situations as defined in *Article 2, paragraph 2(d),* of the Convention. The Committee requests the Government to provide copies of the Acts respecting the general organization of defence, states of emergency and national service. The Committee also requests the Government to provide information on the application in practice of Act No. 87-48 AN-RM respecting the requisitioning of persons, services and goods.

3. *Article 2, paragraph 2(c). Prison labour.* The Committee notes section 1 of the Decree determining the conditions for the application and regulation of sentences to perform work of general interest. Under this provision, the convicted person is compelled to perform a number of hours.of work without remuneration for the benefit of a public community, a public service or an association recognized to be of public interest. The Committee draws the Government's attention to the fact that the Convention requires that the convicted person shall not be hired to or placed at the disposal of private individuals, companies or associations. The Committee requests the Government to limit to public communities and services the institutions which may benefit from work of general interest imposed upon convicted persons.

4. *Article 2, paragraph 2(e). Minor communal services.* The Committee notes the information provided by the Government on this issue.

Mauritania (ratification: 1961)

The Committee takes note of the Government's report.

1. The Committee notes the observations of the International Confederation of Free Trade Unions (ICFTU) which were transmitted to the Government in October 2001. These observations refer once again to the persistence of certain forms of slavery in

Mauritania. The ICFTU alleges that in the eyes of certain persons, birth continues to impose an inferior status on descendants of slavery. The ICFTU adds that these persons of inferior status typically work as agricultural workers, herders of livestock or domestic servants, but remain completely dependent on their traditional masters to whom they pass the money they earn or for whom they work directly in exchange for food and lodging.

In its observations, the ICFTU points out the difficulties encountered by people to escape from their traditional masters. It cites the example of a young man and a 13 year-old girl who were forced to work for their masters as a shepherd and camel herder respectively before escaping and being caught with the help of the police. According to the ICFTU, the victims of slavery rarely overcome their conditions of servitude due to their belief in certain traditional values which lead them to think they belong to their masters.

The Committee also notes that according to the ICFTU, "the central point of concern does not relate to the legal status of slavery in Mauritania, but to whether slavery and involuntary servitude (what the Government refers to as 'the vestiges of slavery') have been abolished in practice".

In its previous reports, the Committee had noted a communication from the World Confederation of Labour (WCL), of October 1997, on the application of the Convention. The WCL had alleged that the Convention was violated through the persistence of practices equivalent to slavery, despite Decree No. 81-234 of 1981 abolishing slavery. In this respect, WCL described the specific testimony of a woman indicating the names of her successive masters, the nature of her work as well as her contacts with the authorities.

The Committee notes that in its most recent report, the Government states that the phenomenon of slavery has gradually disappeared and has not been present for a long time in Mauritanian society.

The Committee had noted the WCL's statements according to which the Government had indicated that persons continuing to denounce slavery in Mauritania were enemies of the country. The Committee had also noted the imprisonment of a leader of an opposition party who was also an anti-slavery activist. Furthermore, the Committee notes the statement of Anti-Slavery International to the Commission on Human Rights in August 1998, according to which several persons were convicted and imprisoned because they condemned the persistence of certain forms of slavery. The Committee also notes that the Government had prohibited the holding of a seminar on servitude which was planned at Kiffa in Assaba from 15 to 18 September 2001 by the Free Confederation of Mauritanian Workers (CLTM).

The Committee has been examining for a great number of years the consistent allegations made by workers' organizations and by non-governmental organizations concerning the persistence of situations of forced labour in Mauritania. The Committee also has examined over the years the Government's repeated indications to the effect that it is inappropriate to refer to the persistence of forced labour situations, instead there are only certain after-effects of the historical phenomenon of slavery, being isolated occurrences linked to the plight of economically weak social groups.

In examining whether there is observance of the Convention in practice, the Committee is faced with the difficulty of reconciling the contradictory assertions made by the workers' organizations and the non-governmental organizations on the one hand and the Government on the other. Bearing in mind the seriousness of the allegations and the complexity of the situation, the Committee suggests that the Government invite the ILO to send a mission to clarify the factual situation. The Committee hopes that it will then be able to assess the situation with the benefit of a report from such a mission together with the Government's response, at its next session in 2002.

2. *Article 25 of the Convention.* The Committee has noted the poverty eradication programme undertaken by the Government with a view to improving the condition of the most underprivileged groups as well as the intention to amend the Labour Code to strengthen the prohibition of forced labour.

The Committee notes, however, that there are no provisions imposing legal sanctions as required by *Article 25* of the Convention. In effect, neither Decree No. 81-234 of 1981, nor other statutory instruments contain provisions which provide for punishing as a penal offence the illegal exaction of forced labour.

The Committee had noted in its previous reports that forced labour was prohibited by the Labour Code, but that the Code only applied to relations between employers and workers. The Committee had invited the Government to take measures to extend the prohibition on any form of forced labour to work relationships such as may result from after-effects of historical phenomena. The Committee had suggested that measures be taken to extend the prohibition of forced labour contained in section 3 of the Labour Code to *all* forms of work relationships, even where they were not covered by a contract. The Committee had also stated that it would be possible to provide explicitly that, subject to the exceptions admitted by the Convention, any situation in which individuals provided work or a service for which they had not offered themselves of their own free will was illegal, could be brought before a civil court and was punishable as a penal offence, in accordance with *Article 25* of the Convention.

The Committee requests the Government to provide information in its next report on the measures taken to give effect to the Convention on this point.

3. The Committee had noted the adoption of Act No. 71059 of 25 February 1971 issuing rules to organize civil protection, which limits the powers to requisition labour to specific exceptional circumstances, corresponding to the definition of cases of emergency set out in *Article 2(2)(d)* of the Convention. The Committee had requested the Government to take measures to repeal the Ordinance of 1962 conferring very wide powers on local leaders to requisition labour.

The Committee notes that in its last report the Government expresses its intention to repeal the Ordinance of 1962 and requests it to indicate in its next report the measures taken to this end.

4. The Committee had noted that Act No. 70-029 of 23 January 1970 provided for the possibility of requisitioning labour when circumstances so required, to ensure the functioning of a service considered to be essential for the country or the population. Under section 5 of Act No. 70-029, persons who have not obeyed a requisition order can be subject to a penalty of imprisonment ranging from one month to one year, as well as to a fine.

In its last report, the Government states that it considers that the types of requisitioning provided by the abovementioned law are in conformity with the Convention and that, in particular, the terms "a service considered to be essential to meet a need of the country or the population" correspond to the cases of emergency set out in *Article 2(2)(d)* of the Convention. The Government indicates that these measures concern public establishments where employees could be requisitioned in the event of a strike.

The Committee requests the Government to provide a complete list of establishments that could be considered as services that are essential for the population and which could be affected by a possible requisition order under Act No. 70-029.

[The Government is asked to report in detail in 2002.]

Mauritius (ratification: 1969)

1. The Committee notes the Government's report. The Committee has also taken note of a communication dated 24 October 2001 of the International Confederation of Free Trade Unions (ICFTU).

Article 1, paragraph 1, and Article 2, of the Convention.
Commercial sexual exploitation of children

2. The Committee notes that in October 2000 the Government released a 1998 study on the commercial sexual exploitation of children. The study was conducted with assistance from UNICEF and the World Health Organization and was aimed at understanding the commercially related sexual exploitation of children in Mauritius and Rodrigues Island. The report includes, among others, a finding that there exists "a well structured network of prostitution which attracts young adolescents leading a stray life after leaving the family home. Such networks take complete charge of such stray young adolescents" (paragraph 101).

3. The report states that many of the girls interviewed were 12-13 years old (paragraph 523), and that "in practically all interviews, it was found that the age of entry into prostitution was 13, which appears to be a critical age" (paragraph 808). Most of the prostitutes interviewed pointed to the violence they are subjected to either by the client or the pimp so as to keep them in a situation of dependence. The report also indicates that confinement in isolation, sometimes referred to as sequestration, is also one of the means to maintain prostitutes in the network (paragraphs 505 and 515). There is thus a continuous experience of violence and sexual abuse in the life of a prostitute. One ex-prostitute explained that she tried to escape on several occasions, just to be captured again and again by the right-hand men of the pimp. She was brought back and submitted to further violence (paragraph 505). The report says that the use of force is also common to maintaining girls in prostitution (paragraph 821). The report indicates that in Mauritius "we can also view the prostitution network as a system, a closed institution. It is difficult to get out of it, unless one has strong will to do so and the means as well" (paragraph 822).

4. The Committee notes the communication dated 24 October 2001 of the ICFTU, submitting comments on the observance of the Convention in Mauritius, a copy of which was transmitted to the Government on 5 November 2001 for any comments it may wish

to make on the matters raised therein. The Committee notes that, according to the ICFTU report, the coercion of children into prostitution is an increasing problem in Mauritius, and that government reports suggest that the victims are children as young as 13 years. The Committee hopes that the Government will provide comments on the allegations in the ICFTU report.

5. The Committee takes note of the report of the Working Group on Contemporary Forms of Slavery submitted in June 2000 at the 25th Session of the United Nations Commission on Human Rights, which includes information received from the Government in April 2000. The report of the Working Group states that the Government has developed a National Action Plan to Combat the Commercial Sexual Exploitation of Children, based in part on the findings of the 1998 study on that question. The report indicates that legal reforms have been brought about as one element of the National Action Plan, and that these include the Protection of the Child (Miscellaneous Provisions) Act 1998, the Criminal Code (Amendment) Act 1998, and the Criminal Code (Supplementary Amendment) Act 1998. The report further indicates that existing legal provisions are not comprehensive enough to enable effective intervention in cases of child prostitution. The report states that among the problems and obstacles to progress are the lack of prompt intervention by the police, who are empowered by existing law to act in cases of alleged child prostitution; legal provisions which are inadequate and need to be strengthened; inadequate skills and expertise to conduct training programmes; the difficulty in reaching out to victims as they generally do not come forward to report cases; and a lack of sensitivity by the police towards child victims who have to testify.

6. The Committee notes that in 1990 the Government enacted legislation establishing the National Children's Council, a coordinating body grouping relevant ministries and NGOs and whose objectives included advising the minister responsible for child welfare on measures to combat all forms of child abuse, neglect and exploitation of children. The Committee notes that through amendments enacted in the Protection of the Child (Miscellaneous Provisions) Act (No. 15 of 1998), the Government replaced this objective of the National Children's Council with the objective of advising the minister on measures to promote child survival, development and protection (section 15(b)). The Committee asks the Government to provide information on the purpose of this amendment, and on the steps taken to ensure that consideration of measures to abolish child exploitation, including the commercial sexual exploitation of children, continues to be a legislative and policy priority.

7. The Committee recalls that, under *Article 1, paragraph 1*, of the Convention, ratifying States are required to suppress the use of forced or compulsory labour in all its forms. The Committee hopes that the Government will take measures necessary to protect children against trafficking and forced labour involving sexual exploitation. The Committee asks the Government to supply information on the implementation of the National Action Plan to combat the commercial sexual exploitation of children. The Committee also asks the Government to report on how the objectives, role and functions of the National Children's Council have been defined so as to include measures to combat all forms of forced sexual exploitation for commercial purposes.

Article 25

8. The Committee notes that section 14 of the Child Protection Act 1994 (Act No. 30 of 1994) makes punishable as a sexual offence acts which cause a child to engage in prostitution or to be sexually abused, and that it defines sexual abuse to include the willing or unwilling participation of a child in any act of a sexual nature for purposes of any kind of exploitation. Section 18(5) prescribes a penalty of up to 5,000 rupees and a term of imprisonment of up to five years for persons convicted of these offences. The Committee notes that under section 11 of the Criminal Code (Amendment) Act 1998 (No. 13 of 1998) which amends section 258 of the Criminal Code Act, those who sequester minors are liable to a minimum term of imprisonment of two years. The Committee notes that section 12 of the Criminal Code (Amendment) Act adds a new provision to the Criminal Code which penalizes as child trafficking the acts of persons who, for pecuniary gain, threaten the parents of a child to abandon their child. The Act makes persons convicted of child trafficking liable to a term of imprisonment of up to two years and to a fine of up to 50,000 rupees.

9. The Committee recalls that, under *Article 25* of the Convention, the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and that ratifying States have an obligation to ensure that penalties imposed by law are really adequate and are strictly enforced. The Committee asks the Government to provide information on any cases prosecuted, convictions obtained, and penalties imposed under sections 258(3)(a) and 262A of the Criminal Code Act as amended by the Criminal Code (Amendment) Act 1998 and sections 14 and 18 of the Child Protection Act 1994, and under any other applicable laws, and to include the texts of relevant court rulings. The Committee also requests that the Government supply information on measures taken to improve police training and intervention in cases of child trafficking and commercial sexual exploitation of children, and to establish or improve victim outreach programmes. The Committee asks the Government to provide information on any other measures taken or envisaged to enact new or strengthened legal provisions making the exaction of forced or compulsory labour punishable as a penal offence, and to ensure that such laws are made effective by means of penalties which are adequate and strictly enforced. The Committee asks that in its next report the Government supply the full text of the Criminal Code Act.

Prison labour exacted as a consequence of a conviction

10. The Committee notes that under section 27(2) of the Prisons Ordinance (Title XXIII, Chapter 313) of 1888, as amended in 1945, labour shall be optional to prisoners detained pending enquiry or committed for trial. The Committees observes, however, that section 35 of the Reform Institutions Act 1988 provides that every sentence of detention shall subject the detainee to the performance of such work as may be directed by the officer in charge during the term of the sentence. The Committee observes that under section 16 of the Prison Regulations 1989, detainees may be required to work, provided such work is of a kind authorized by the commissioner.

11. With reference to paragraph 90 of its 1979 General Survey on the abolition of forced labour, the Committee recalls that work can only be exacted from a prisoner as a consequence of a conviction. It follows that persons who are in detention but have not been convicted – such as prisoners awaiting trial or persons detained without trial –

should not be obliged to perform labour (as distinct from certain limited obligations intended merely to ensure cleanliness).

12. The Committee requests the Government to indicate the measures taken or contemplated to ensure, with regard to the Reform Institutions Act 1988 and the Prisons Regulations 1989, that work is only exacted from prisoners as a consequence of a conviction, in conformity with *Article 2, paragraph 2(c)*, of the Convention and section 27(2) of the Prisons Ordinance.

Myanmar (ratification: 1955)

1. The Committee has noted the Government's reports on the application of the Convention. In examining compliance with the recommendations of the Commission of Inquiry established to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29), the Committee has furthermore taken note of the following information:

- the information submitted to, and the discussions held at, the International Labour Conference at its 89th Session, (June 2001) (*Provisional Record* No. 19, Part Three);
- the information submitted to, and the discussions held in, the Governing Body of the ILO at its 280th Session in March 2001 (reproduced in *Provisional Record* No. 19, Part Three, of the 89th Session of the International Labour Conference);
- the information submitted to the Governing Body of the ILO at its 282nd Session in November 2001, including in particular the report of the High-Level Team (HLT) on "Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)" (GB.282/4 and Appendices), the presentation by the representative of the Government, and the conclusions by the Governing Body (GB.282/4/2);
- the resolution adopted by the United Nations Commission on Human Rights at its 57th Session (March-April 2001) on the situation of human rights in Myanmar (UN document E/CN.4/RES/2001/15);
- the interim report prepared by Paulo Sergio Pinheiro, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, dated 20 August 2001 (UN document A/56/312) and his statement made on 9 November 2001 to the 56th Session of the General Assembly;
- a briefing on the ILO Governing Body meeting of November 2001 given on 19 November 2001 by the Myanmar Ministry of Foreign Affairs and reported the following day in "The New Light of Myanmar" and by "Reuters";
- a communication dated 29 November 2001 with which the International Confederation of Free Trade Unions (ICFTU) submitted to the ILO fresh documentation referring to the continuing massive recourse to forced labour by military authorities in Myanmar, a copy of which was transmitted to the Government for such comments as it may wish to present on the matters raised therein.

2. Information available on the observance of the Convention by the Government of Myanmar will again be discussed in three parts, dealing with: (i) the amendment of

legislation; (ii) any measures taken by the Government to stop the exaction in practice of forced or compulsory labour and information available on actual practice; and (iii) the enforcement of penalties which may be imposed under the Penal Code for the exaction of forced or compulsory labour.

I. Amendment of legislation

3. In paragraph 470 of its report of 2 July 1998, the Commission of Inquiry noted:

> ... that section 11(d), read together with section 8(1)(g), (n) and (o) of the Village Act, as well as section 9(b) of the Towns Act provide for the exaction of work or services from any person residing in a village tract or in a town ward, that is, work or services for which the said person has not offered himself or herself voluntary, and that failure to comply with a requisition made under section 11(d) of the Village Act or section 9(b) of the Towns Act is punishable with penal sanctions under section 12 of the Village Act or section 9(a) of the Towns Act. Thus, these Acts provide for the exaction of "forced or compulsory labour" within the definition of *Article 2(1) of the Convention.*

The Commission of Inquiry further noted that the wide powers to requisition labour and services under these provisions do not come under any of the exceptions listed in *Article 2, paragraph 2,* of the Convention and are entirely incompatible with the Convention. Recalling that the amendment of these provisions had been promised by the Government for over 30 years, the Commission urged the Government to take the necessary steps to ensure that the Village Act and the Towns Act be brought into line with the Convention without further delay, and at the very latest by 1 May 1999 (paragraph 539(a) of the Commission's report).

4. The Committee observes that by the end of November 2001, the amendment of the Village and Towns Acts sought by the Commission of Inquiry as well as the present Committee and promised by the Government for many years had not yet been made, nor had any draft law proposed or under consideration for that purpose been brought to the knowledge of the Committee. The Committee notes from paragraph 47 of the report of the HLT that legislative powers were exercised by the Government in June 2000 and February 2001 when it adopted the "Judiciary Law, 2000" and the "Attorney-General Law, 2001". The Committee again expresses the hope that the Village Act and the Towns Act will at last be brought into conformity with the Convention.

5. In its previous observation, the Committee noted that although the Village Act and Towns Act still needed to be amended, an "Order Directing Not to Exercize Powers Under Certain Provisions of the Town Act, 1907, and the Village Act, 1907" (No. 1/99), as modified by an "Order supplementing Order No. 1/99" dated 27 October 2000, could provide a statutory basis for ensuring compliance with the Convention in practice, if given bona fide effect not only by the local authorities empowered to requisition labour under the Village and Towns Acts, but also by civilian and military officers entitled to call on the assistance of local authorities under the Acts. This, in the view of the Committee, called for further measures to be undertaken, as indicated by the Commission of Inquiry in its recommendations in paragraph 539(b) of its report.

II. Measures to stop the exaction in practice of forced or compulsory labour and information available on actual practice

A. Measures to stop the exaction in practice of forced or compulsory labour

6. In its recommendations in paragraph 539(b) of its report of July 1998, the Commission of Inquiry indicated that steps to ensure that in actual practice no more forced or compulsory labour be imposed by the authorities, in particular the military, were:

> … all the more important since the powers to impose compulsory labour appear to be taken for granted, without any reference to the Village Act or Towns Act. Thus, besides amending the legislation, concrete action needs to be taken immediately for each and every of the many fields of forced labour examined in Chapters 12 and 13 [of the Commission's report] to stop the present practice. This must not be done by secret directives, which are against the rule of law and have been ineffective, but through public acts of the Executive promulgated and made known to all levels of the military and to the whole population. Also, action must not be limited to the issue of wage payment; it must ensure that nobody is compelled to work against his or her will. Nonetheless, the budgeting of adequate means to hire free wage labour for the public activities which are today based on forced and unpaid labour is also required … .

7. *Absence of specific and concrete instructions.* In its previous observation, the Committee noted that in the absence of specific and concrete instructions to the civilian and military authorities containing a description of the various forms and manners of exaction of forced labour, the application of the provisions adopted so far turns upon the interpretation in practice of the notion of "forced labour". This cannot be taken for granted, as shown by the various Burmese terms used sometimes when labour was exacted from the population – including "loh ah pay", "voluntary" or "donated" labour. The need for clarity on the point was underscored by the Government's recurrent attempts to link the pervasive exaction of labour and services by mainly military authorities to merit which may be gained in the Buddhist religion from spontaneously offered help. The Commission of Inquiry recalled in paragraph 539(c) of its report that "the blurring of the borderline between compulsory and voluntary labour, recurrent throughout the Government's statements" was "all the more likely to occur in actual recruitment by local or military officials".

8. In its report on the application of the Convention, the Government only refers to a directive issued on 1 November 2000 by the State Peace and Development Council (SPDC) "instructing all concerned authorities to strictly abide by the Orders issued by the Ministry of Home Affairs", i.e. Order No. 1/99 and its supplementary order, mentioned in paragraph 5 above. The Committee notes from the report of the HLT that it:

> ... requested on a number of occasions to be provided with authoritative translations of any additional instructions addressed to any authority, including the military. At the time of drafting its report, [in October 2001] the HLT had only received three instructions in Burmese issued by various military commanders to units under their command. Official translations of these orders have been requested but not yet received. On the basis of unofficial translations, the HLT understood that two of these orders simply reproduced the text of the order issued by Secretary-1 dated 1 November 2000. They did not contain any specifications either of the kinds of tasks for which the requisition of labour was prohibited nor the manner in which the same tasks were henceforth to be performed. The third

instruction issued by the NaSaKa and dated 22 July 2001 re-stated the general prohibition on requisitioning of forced labour contained in the Orders but added that if recourse to forced labour was necessary, payment should be made accordingly.

The third instruction thus provides another example of the blurring of the borderline between compulsory and voluntary labour, referred to in paragraph 7 above, and of action which in the last resort is limited to the issue of wage payment, contrary to the specific indications in paragraph 539(b) of the report of the Commission of Inquiry, quoted in paragraph 6 above.

9. Thus, clear instructions are still required to indicate to all officials concerned, including officers at all levels of the armed forces, both the kinds of tasks for which the requisition of labour is prohibited, and the manner in which the same tasks are henceforth to be performed. The Committee hopes that the necessary detailed instructions will soon be issued, and that they will inter alia cover each of the following:

- portering for the military (or other military/paramilitary groups, for military campaigns or regular patrols);
- construction or repair of military camp/facilities;
- other support for camps (guides, messengers, cooks, cleaners, etc.);
- income generation by individuals or groups (including work in army-owned agricultural and industrial projects);
- national or local infrastructure projects (including roads, railways, dams, etc.);
- cleaning/beautification of rural or urban areas;
- the supply of materials or provisions of any kind. The prohibition of requisition also must apply to demands of money (except where due to the State or to a municipal or town committee under relevant legislation) since in practice, demands by the military for money or services are often interchangeable.

10. *Publicity given to orders.* While the specific and concrete instructions called for by the Commission of Inquiry appear not yet to have been adopted, the Government indicates in its report that Order No. 1/99 and its supplementing order and the Directive of the SPDC of 1 November 2000 (see paragraphs 5 and 8 above) have been circulated to all state organs and ministries including the Ministry of Defence, and to all local administrative authorities down to the Ward and Village Tract Peace and Development Councils, and that the Orders have also been publicly circulated in the monthly Myanmar Gazette to inform the entire population in a formal manner, which is the normal procedure in Myanmar for all laws, byelaws, orders etc. issued by the Government.

11. It appears from the report of the HLT that Order No. 1/99 and its supplementary order, referred to in part 5 above, were in general given considerable publicity in the period preceding the visit of the HLT, including their posting in English and Burmese on the noticeboards of Village Peace and Development Council (VPDC) offices and other public offices, and through large numbers of meetings arranged by various authorities to inform both the general population and administrative officials of the content of the Orders. Copies of the Orders have also been distributed to members of the military, the NaSaKa and the police force. The HLT however noted that there was considerable geographic variation in the dissemination of the Orders as well as in the time frame in which this dissemination occurred. In many cases persons met by the HLT

said that they had been informed of the Orders by foreign radio stations rather than by the authorities. The HLT also noted that the Orders had not been disseminated at all via the mass media, nor distributed in languages other than English and Burmese, and that in particular the Orders had not been translated into any of the other major ethnic languages spoken in the country. The HLT was informed by people in different parts of the country that they could not understand the Orders that were posted in their areas because they did not read or understand Burmese well enough. The HLT further noted that the Orders had not always been disseminated together, although they need to be read in conjunction.

12. The Committee also notes the allegation made by the ICFTU in its communication dated 29 November 2001 that:

> Indeed, many reports included herewith confirm that, in certain parts of the country at least, Order 1/99, its Supplementary Order and other relevant legal texts had been widely publicised. Reports abound in the ICFTU's evidence of meetings organised in villages by the authorities to this effect, ahead of the ILO's visit. As often as not, they had been run by senior SPDC officials dispatched from regional commands or even Rangoon.
>
> In actual fact, villagers frequently – if not always – had to pay the costs of these "information gatherings", such as gasoline or food and drink for visiting SPDC officials. As for the "Orders" themselves, they were publicised, quite cynically, through what can only be described as "forced distribution", whereby the so-called "Green Book" issued by the authorities on the subject had to be bought at 1,000 kyats or more per copy, with typically 1 to 8 copies forcibly sold to each village; the villagers were also forced to purchase foam boards on which the "Orders" had to be posted.

The Government may wish to comment on this allegation.

13. *Budgeting of adequate means*. The Committee notes that the issue of allocating adequate budgetary resources to recruit voluntary wage labour for public activities which have been based on forced and unpaid labour was taken up by the HLT with the Myanmar authorities. On a number of occasions during its field trips and in Yangon, the HLT requested details on alternative means of obtaining required labour or services now that forced labour was prohibited. The HLT also inquired about any changes in budgetary arrangements. It appears from paragraphs 63 to 66 of the report of the HLT that at the time the report was finalized (29 October 2001), the HLT had not received information allowing it to conclude that the authorities had indeed provided for any real substitute for the cost-free forced labour imposed to support the military or for public works projects. The Committee again expresses the hope that the necessary detailed instructions will soon be issued, and that, in the words of paragraph 539(b) of the Commission of Inquiry's report, provision will also be made for "the budgeting of adequate means to hire free wage labour for the public activities which are today based on forced and unpaid labour".

14. *Monitoring machinery*. In its report, the Government refers to the creation of a Ministerial Level Committee and a National Level Implementation Committee which are not only to monitor the adherence to law by local authorities, members of the armed forces and other public service personnel, but also to ensure that the local authorities and the people at the grass-root level are fully aware of the aforementioned orders nationwide. Also, Field Observation Teams (FOT) respectively led by Heads of the Departments under the Ministry of Labour and comprising of responsible personnel from the General Administration Department, Myanmar Police Force and the Department of Labour, have been dispatched to various areas to investigate the situations relating to the

practice of forced labour and to observe the public awareness of these Orders. These FOTs will make frequent visits to all areas within the country. These are instances of the Government's endeavours to abolish the practice of forced labour throughout the country. The Committee notes these indications, which need, however, to be placed in the context, already considered above, of the absence of specific and concrete instructions as well as budgetary allocations for the replacement of forced and unpaid labour. Information available on actual practice will be considered in paragraphs 15 to 22 hereafter and the punishment of offenders in paragraphs 23 et seq. below.

B. Information available on actual practice

15. *The Government's view.* In its report on the application of the Convention transmitted on 30 September 2001, the Government refers to its "endeavours to abolish the practice of forced labour throughout the country", but gives no indications as to the results so far achieved. At a briefing of heads of Foreign missions in Yangon on the ILO Governing Body meeting of November 2001, given on 19 November 2001 by the Myanmar Ministry of Foreign Affairs, as reported on 20 November by "The New Light of Myanmar" and "Reuters", Deputy Minister for Foreign Affairs, Khin Maung Win, is stated to have said that "following the transmission by the High-Level Team of some complaints regarding forced labour, the authorities concerned launched thorough investigations; and these investigations showed that the allegations were baseless and false and the authorities had replied to the ILO to this effect ...".

16. *HLT findings.* "Findings as regards the impact on the realities of forced labour of the steps taken to implement the Orders" are set out in paragraphs 54 to 58 of the report of the HLT as follows.

> 54. As the Chairperson of the HLT explained to the Chairman of the SPDC Senior General Than Shwe on 5 October 2001, the HLT members were from the outset very sceptical about the optimistic conclusions which were officially drawn from the absence of reported violations and of any criminal prosecution for such violations. Indeed, the HLT's field trips and its interviews conducted across the border, amply justified this scepticism.
>
> 55. The tentative conclusion that the HLT had reached after completing its three weeks of interviews and visits in Myanmar was of a very moderately positive evolution in the situation. Beyond the obvious although uneven effort at disseminating the Orders, the two groups of the HLT shared the view that a certain decrease in the imposition of forced labour had taken place, even though it was difficult to judge precisely to what extent. The HLT did, however, have doubts about the sustainability of the process over time, and was concerned about the geographical inconsistencies in the progress made, given that in some areas a considerable amount of forced labour appeared to persist. This was particularly associated with the presence of the military, especially in more remote areas.
>
> 56. The picture which emerged from discussions and interviews conducted across the border, which concentrated on the case of ethnic groups was even more disturbing. In fact, it was not very different from the situation presented in the report of the Commission of Inquiry. Forced labour in most of the forms previously identified seemed still to prevail, particularly in villages which were close to a military camp. All too often it was accompanied by acts of cruelty.
>
> 57. ... A balanced assessment of the trend in forced labour practice needs to reflect general patterns, as well as to distinguish between different types of situation. The following two general patterns seem to emerge:

> (a) In contrast to the situation reported in 1998 by the Commission of Inquiry, the HLT found no indications of the current use of forced labour on civil infrastructure projects.
>
> (b) In all areas for which the HLT had information it was apparent that there was a strong correlation between the presence of military camps and the practice of forced labour whether or not these troops were engaged in military activities (see paragraphs 61 and 62 below).
>
> However, it is important to make the following distinctions:
>
> (c) In many areas, despite continued forced labour as a result of a military presence, there were indications that the situation had improved. The sustainability of this improvement is not clear, since it depends on the willingness of local military commanders to continue to rely less on forced labour.
>
> (d) In certain other areas, particularly southern Shan State and the eastern parts of Kayin State near the Thai border, the situation appeared to be particularly serious. This might be partly explained by the greater military presence in these areas, and by their remoteness, but there also appears to be an element of greater repression against these populations as a result of the ongoing insurgencies in these areas. Contrary to claims made by the authorities in Yangon, there is no indication that portering in these areas has diminished in any noticeable way as a result of any greater use of mules or because of any improvement in the road network.
>
> (e) The situation is also particularly serious in northern Rakhine State, which is also a remote area with a large military presence. The Muslim population in this area is disproportionately affected by forced labour; it reflects an element of discrimination against this population, which also takes the form, inter alia, of restrictions on movement.
>
> 58. There were some indications that the military had recourse to other methods of obtaining labour or services, such as requisitioning vehicles and their drivers. The HLT also met across the border in Thailand with three escaped porters. One claimed to have been arrested on an administrative matter (failure to pay full rice tax) and the other two claimed to have been arbitrarily detained. All were handed over by the police to the military and used as porters, without ever being formally charged or appearing before a judge. Their clothes were taken away by the military and they were made to wear blue convict uniforms.

17. *HLT analysis.* In identifying obstacles to the more effective eradication of forced labour, the HLT referred in particular to the "self-reliance" policy of the army, the uncertainty as regards substitute financial/practical arrangements (see paragraph 13 above) and institutional obstacles. In paragraphs 59 to 62 of its report, the HLT describes the "self-reliance" policy of the army and its bearing on the practice of forced labour in the following terms.

> 59. There seems to be little doubt whatever that non-application of the Orders by the army can hardly be attributed to ignorance. As previously noted, the Orders seem to have indeed been the object of wide – if uneven – dissemination at all levels of the military hierarchy. The disturbing evidence seems to be that these Orders are not observed by the military at the local level and that there seems to be no accountability in the case of breaches. ...
>
> 60. Rather than individual indiscipline, this attitude seems to have a lot to do with a policy of self-reliance in the context of combating insurgent ethnic movements which have, according to some, deep roots in the military history of the country. But it also has obvious practical and logistical reasons. The army does not have modern mechanical means and equipment and sometimes not even sufficient resources to feed all its soldiers. ...

> 61. However, this policy of self-reliance has another quite different dimension which is also relevant to the issue. The army has greatly expanded over the last decade (from 120,000 to over 350,000 soldiers according to military intelligence officers). Ten years ago, it was already supposed to participate in railway construction. However, the size of the army has not decreased in proportion with the much advertised progress of pacification. Because of continued budgetary constraints, a policy has developed whereby soldiers who are not fighting continue to receive their pay but have to engage in farming or other productive activities on lands assigned to them. Any surplus above what is needed for their subsistence is supposed to be sold on the market at below normal prices to fight against inflation. ...
>
> 62. It may be suspected indeed that this form of reconversion of soldiers into economic activities for which they are not necessarily well qualified or prepared is not only doubtful in terms of productive efficiency, but also produces a permanent incentive for soldiers who do not have an inclination for agricultural work to continue to abuse villagers. This does not mean, however, that the Orders are not capable of making a difference to the situation of forced labour. It seems on the contrary clear from various testimonies that villagers were less and less prepared to accept the existing situation. Thus, in one specific case they were concretely considering petitioning the authorities on the basis of the Orders.

18. *The ICFTU communication.* In its communication dated 29 November 2001, the ICFTU states that:

> In spite of their denials, alleged efforts to suppress the practice, professed good will and spirit of co-operation with the ILO, the military authorities of Burma have continued to resort to forced labour on a massive scale. Senior, middle and low-ranking army officers and rank-and-file soldiers, as well as civilian authorities, have continued to exact forced labour in all areas of activity previously identified by the ILO. In support of its claims, the ICFTU encloses nearly 30 reports and other documents, totalling over one hundred pages. They provide detailed evidence, from the same sources and of the same quality as the hundreds of reports examined over the last 5 years by the ILO and found to be credible and authentic.
>
> Appendices to this letter provide ample and recent evidence of forced labour, including forced portering for the army, often in combat, with frequent deaths of porters from exhaustion, disease, deprivation of food, water, rest and medical care or by sheer murder. They also describe forced road clearing and building, construction and maintenance of army installations, confiscation of land and forced agricultural work on this land for the army's benefit or profit, compulsory supplies of construction materials, food (including rice, meat, fish, vegetables and fruit) and alcohol, forced labour in army-owned brick kilns and forced supply of firewood for them, random and arbitrary tax collection of every kind and many more.

The Committee notes that the documents appended to the ICFTU communication cover the period January to November 2001. While concurring with the HLT findings on the strong correlation between the presence of military camps and the practice of forced labour, they also point to the current use of forced labour on civil infrastructure projects, both before and after the HLT visit, and often include precise indications of time and place, any military battalions or companies involved and the names of the commanders.

19. Allegations of forced labour on civil infrastructure projects included in the ICFTU documentation refer to the supply and transport of road metal and wooden sleepers to the Ye-Tavoy railroad in Natkyizin, Yebyu Township, in September 2001, and the following two examples, as summarized by the ICFTU:

- forced labour on a railroad in southern Shan State, last October (hundreds of civilians conscripted to work on a new rail line being built from the state capital Taung-gyi to the township administrative centre of Namzang: 240 people from Namzang township alone, forced to clear area for the railroad, under the supervision of Captain Than Naing Oo, Infantry Battalion No. 66, assisted by personnel of the national railway company);

- forced road repairs in Kyaikmayaw Township (Mon State), in early October, in order to improve a local road ahead of a visit by Brigadier General Myint Swe (Commander-in-Chief, Southeast Military Command) to Tarana village; villagers were forced to repair the motor road for nine days (6-14 October); Brig.-Gen. Myint Swe visit (i.e. the reason which prompted the forced labour in question) took place shortly after he had met the ILO High-Level Team, in Mawlamyine, on 25 and 27 September 2001 (see ILO doc. No. GB.282/4/Appendix VI, page 4); according to local villagers, forced labour in the area was interrupted during the presence of the ILO HLT in the country, and resumed afterwards.

20. Further allegations of forced labour by villagers concern infrastructure projects of a less civil character, such as the building of a road connecting villages to military bases on Kalargote island, from mid-October until the first week of November; the forced clearing of a road infested with landmines, between Mawchi (in Kayah State) and Taungoo (in Bago Division), last September; road clearance along railway and motor roads in Ye township, in October 2001; and clearance of all roads out of Lai-kha town up to a distance of about 30 km, in June 2001.

21. The greatest number of indications of forced labour communicated by the ICFTU concern service to the military, such as the conscription of 250 civilian porters, including 108 women and children, some as young as eight, on 13 June 2001 on the outskirts of Murng-Kerng town by a patrol of troops from LIB 514 led by a (named) captain under the orders of the (named) battalion commander. It is stated that these villagers were released on 28 June 2001 after 16 days of service without pay, during which the women porters above 15 years were raped by the soldiers, and about five to six days later the same troops ordered the village headmen in the area to provide ten to 15 civilian porters from each village. There are similarly precise allegations for the period June to October 2001 concerning the forced cutting of bamboo and making of fences and bamboo walls for barracks; repair of barracks; clearing of drainage channels in the bases and trenches and bunkers around them, and clearing of bushes; the forced digging of ditches, with the killing of a slow worker and charging his village 3,000 kyats for the repatriation of his body; serving as messengers, cutting and carrying firewood, cooking, carrying water and doing errands; growing rice on fields confiscated from the forced labourers; and the ordering, on 18 September 2001, of villagers by the (named) new commander of LIB No. 65, to supply 4,000 sheets of thatching material for a new amphetamine factory under construction 14 miles from Mong Ton on the Mong Ton-Mong Hsat road (Shan State).

22. The Committee hopes that the Government will examine the indications given by the ICFTU and supply detailed information on any action taken thereupon, as well as upon the report of the HLT, to prosecute all persons found responsible of ordering forced labour and of any concomitant crimes. More fundamentally, the Committee hopes that the required specific and concrete instructions and budgetary provisions for the effective eradication of forced labour, as indicated by the Commission of Inquiry in paragraph 539(b) of its report and referred to again in paragraphs 9 and 13 above, will at last be adopted, and that the Government will supply full information on the action taken.

III. Enforcement

23. In paragraph 539(c) of its recommendations the Commission of Inquiry urged the Government to take the necessary steps to ensure:

> ... that the penalties which may be imposed under section 374 of the Penal Code for the exaction of forced labour or compulsory labour be strictly enforced, in conformity with Article 25 of the Convention. This requires thorough investigation, prosecution and adequate punishment of those found guilty.

24. In its previous observation, the Committee noted that point 4 of the directive dated 1 November 2000 from the State Peace and Development Council to All State and Divisional Peace and Development Councils (referred to in paragraph 8 above) provides for the prosecution of "responsible persons" under section 374 of the Penal Code, and that a similar clause is included in point 3 of an instruction dated 27 October 2000, addressed by the Director-General of the Police Force to all units of the police force. Moreover, under points 4 to 6 of the instruction dated 27 October 2000:

> 4. If any affected person files a verbal or written complaint to the police station of having been forced to contribute labour, the latter shall record the complaint in Forms A and B of the police station and send the accused for prosecution under section 374 of the Penal Code.
>
> 5. It is hereby directed that the police stations and units concerned at various levels shall be further instructed to make sure their strict compliance with the said Order as well as to supervise so that there shall be no requisition of forced labour. A copy of the Order Supplementing Order No. 1/99 issued by the ministry of Home Affairs on 27 October 2000 is enclosed herewith.
>
> 6. It is instructed to acknowledge receipt of this directive and to report back actions taken on the matter.

25. With regard to point 4 of the instruction dated 27 October 2000 the Committee expressed the hope that prosecutions under section 374 of the Penal Code would be brought by the law enforcement agencies on their own initiative, without waiting for complaints by the victims, who may not consider it expedient to denounce the "responsible persons" to the police. The Committee hoped that in commenting on indications that the imposition of forced labour has continued beyond October 2000, the Government would also report on concrete action taken under section 374 of the Penal Code.

26. None of these concerns have so far been met. In its report, the Government repeats:

> ... that necessary mechanisms have also been put in place to take action to the local authorities who fail to abide by the Orders under Section 374 of the Penal Code or any other existing law. And anyone wishing to make a complaint for being subjected to forced exaction of labour can do so in respective Township Court, Police Station or Township or Ward and Village Tract Peace and Development Council. Therefore, there are proper means to accommodate such complaints already in place.

No action under section 374 of the penal Code has been brought to the knowledge of the Committee.

27. In paragraphs 52 and 53 of its report, the HLT describes "the realities of enforcement" as follows:

> 52. The HLT was also given a document prepared by the Ministry of Home Affairs entitled "Action Taken on Cases For Not Abiding Order 1/99 and Its Supplementary Order Issued by the Ministry of Home Affairs". Thirty-eight instances where action had been taken were mentioned. A meeting was specifically organized on the HLT's last day in the country in order to obtain further details concerning the cases referred to in this document. It appeared that all actions taken were of an administrative nature. They ranged from a simple warning to dismissal or discharge of the person concerned. None referred to section 374 of the Penal Code as provided for in the Orders. The HLT was informed that "inquiry committees" had authority to decide on the measures that should be imposed in case of violations of the Orders. To date, these inquiry committees had deemed it more appropriate to deal with alleged breaches of the Orders from an administrative standpoint rather than by having recourse to criminal prosecution. Out of the 38 cases, 10 occurred prior to May 1999 and therefore were not covered by the Orders. All cases involved TPDC or VPDC officers. ... It was apparent to the HLT that this document was a totally inadequate response to any inquiry as to what action had been taken to give effect to the Orders; yet no other response was made, nor, it seems, could be.
>
> 53. Most members of the general population with whom the HLT met during its visit to the country stated that they would not use the complaint procedure as envisaged in the Orders (through the courts or the police). They would more likely complain to the VPDC or TPDC. Many were scared that reprisals could be taken against them. In that respect, the HLT was given several accounts of people being beaten, detained or otherwise punished for earlier complaints on this or other issues. ...

The HLT also notes, in paragraph 68 of its report:

> ... that the reluctance to use the procedures specifically provided for by law is due to a large extent to the lack of trust in the police and the judicial system, in the absence of a constitutional guarantee of the separation of powers and the independence of the judiciary.

28. The ICFTU in its communication dated 29 November 2001 stresses:

> ... that in many cases, both military and civilian authorities have blatantly brushed aside villagers' and headmen's objections to performing forced labour under the rights purportedly granted to them under Order 1/99 and the Supplementary Order. This extends from a village headman being punished twice when his villagers, invoking Lt. Gen. Khin Nyunt's "Orders", refused to perform forced labour (last September in Kawkareik, Karen State), to Tadmadaw officers openly disregarding them or even threatening to shoot anyone refusing to comply, as is described below.
>
> In August 2001, villagers from Kyar Inn Seikkyi township (Karen State) complained to local army officials against demands for forced labour. They had been publicly informed by SPDC officials from Rangoon about the "Order", and forced to buy copies of the "Green Book" at prices going from 500 to 3,000 kyats. In reply, Lt. Col. Win Myint, Battalion Commander, Infantry Battalion (IB) 232, Taung Tee Camp, said that the "order" had been issued from Rangoon and it would be effective in Rangoon. In this area, "he" was the area commander sent by Rangoon and they had to follow his instructions. If they wanted Order No. 1/99 to be applied in their area, they would have to *"relocate to Rangoon and stay with Khin Nyunt"* ...

The documentation transmitted by the ICFTU:

> ... also includes a detailed account of forced portering for an army platoon of 8 soldiers, led by one 2nd-Lt. Tin Myo Win, Infantry Battalion (IB) 266, based in Hakha (Chin State, on the India-Burma border). The army column itself was based at Sa-Baung-Tha army camp. A group of 54 villagers had to porter for the army for a period of 8 days. As they were not given any compensation for the work, various chairmen of the VPDC (village authorities), quoting General Khin Nyunt's "Order" asked 2nd-Lt. Tin Myo Win for the corresponding

> wages. According to [the] report, "*Lt. Tin Myo Win replied that anyone who should dare to ask for compensation next time would be shot and killed at once. They were so terrified that no one dared to ask for compensation anymore*" ...

The ICFTU puts this case "in the context of the dramatic incident reported by the HLT to Lt. Gen. Khin Nyunt" and referred to in paragraphs 28 and 53 and Appendix XI of its report, as well as the alleged detention of a witness who spoke to the HLT during its visit in Arakan State, and whose very existence was subsequently denied by the authorities. The ICFTU also notes "that other reports of harassment exist, including detention, against witnesses who spoke to the HLT", and refers to two such incidents said to have occurred in Pa-an district in October 2001. The Government may wish to comment on these matters, indicating in particular how any investigations into the allegations were conducted, by the military themselves or by the judiciary, and any measures taken to protect from reprisals both witnesses having testified, and victims of forced labour seeking redress.

* * *

29. In short, the Committee notes that none of the three recommendations formulated by the Commission of Inquiry and accepted by the Government have so far been met. Despite longstanding promises, as well as the Government's assured good will, the Village Act and Towns Act have not yet been amended. While Order No. 1/99, as supplemented, has been widely publicized and may for the time being have affected certain civil infrastructure projects, by itself the order has not stopped the exaction of forced labour, in particular by the military. There is no indication that the necessary specific and concrete instructions and budgetary provisions have been adopted or even prepared with a view to effectively replacing forced labour by offering decent wages and employment conditions to freely attract any workers needed. Finally, there is no indication that any person responsible for the exaction of forced labour and often concomitant crimes was sentenced or even prosecuted under section 374 of the Penal Code or any other provision, in conformity with Article 25 of the Convention.

30. People met by the HLT "indicated that there was no point in complaining to the authorities since it was the authorities themselves who were imposing forced labour" (paragraph 53 of the report). Whilst the Government permits the exploiters of forced labour to be perceived as representing the state authority, it thereby extends the validity of the Commission of Inquiry's concluding observation:

> ... that the impunity with which government officials, in particular the military, treat the civilian population as an unlimited pool of unpaid forced labourers and servants at their disposal is part of a political system built on the use of force and intimidation to deny the people of Myanmar democracy and the rule of law.

[The Government is asked to supply full particulars to the Conference at its 90th Session.]

Niger (ratification: 1961)

1. The Committee notes the study undertaken by the ILO in 1999 on child labour in small-scale mining. The study covers the following mines:

- Birnin N'Gaouré in the department of Gosso (natron mining);
- Gaya in the department of Dosso (salt mining);

- Torodi and Téra in the department of Tillabéry (gold mining);
- Madaoua in the department of Tahoua (gypsum mining).

The Committee notes that under sections 9, 15, 32 and 75 of Ordinance No. 93-16 of 2 March 1993, no operations can be carried out without an operation authorization and that the framework for working the minerals in small-scale mines is contained in this Ordinance and further clarified in Decree No. 93-44/PM/MMEI/A of 12 March 1993. The Committee notes however that there are no specific regulations on safety in mines.

The Committee notes that, according to the ILO study, child labour is extremely common in Niger, mainly in the informal sector. Moreover, small-scale artisanal mining is the country's most dangerous informal sector activity; this branch alone employs several hundred thousand workers. According to ILO estimates, the numbers are as follows:

- small mines: 147,380 workers, 70,000 of whom are children (47.5 per cent);
- small mines and quarries: 442,000 workers, 250,000 of whom are children (57 per cent).

In all the abovementioned mines, according to the study, conditions of work for children are extremely difficult. As from the age of eight, they carry out physically exacting and dangerous tasks, more often than not seven days a week for approximately ten hours a day. The work involves serious risks of accidents and diseases which are damaging for children's health. The Committee further notes the absence of modern mine safety techniques in the sites observed and the lack of sanitary infrastructures and any systematic health care in the neighbourhood.

The Committee also notes that the statutory minimum age for admission to work in Niger is 14 years in general and 18 years in the mining sector, in accordance with the Minimum Age Convention, 1973 (No. 138), so neither the child nor the persons with parental authority may give valid consent to such employment. Moreover, being in economic straits, parents often force children to work, which means they are deprived of schooling.

The Committee observes that, even though not all work done by children amounts to forced labour, it is essential to examine the conditions in which such work is carried out and to measure them against the definition of forced labour, particularly as concerns the validity of consent given to performing such work and the possibility of leaving such employment, in order to determine whether the situation falls within the scope of the Convention.

The Committee asks the Government to examine the situation of children working in mines in the light of the Convention, to provide full information on their working conditions and on any measures taken or envisaged to protect them against forced labour.

2. The Committee refers to the report of the Working Group on Contemporary Forms of Slavery (E/CN.4/Sub.2/1994/33 of 13 June 1994), and notes that children are forced to beg in West Africa, including in Niger. According to paragraph 73 of the above report, many families entrust their children as soon as they are 5 or 6 years of age to the care of a religious leader *(marabout)* with whom they live until the age of 15 or 16. During these ten years the *marabout* has absolute control over their lives and forces them

to perform various tasks, including begging, in return for which he undertakes to teach them.

The Committee considers that persons in a relationship resembling a slave-master relationship, lacking freedom to control their own lives, are, due to these very circumstances, carrying out work for which they have not offered themselves voluntarily.

The Committee notes section 4 of Ordinance No. 96-039 (Labour Code) which prohibits forced labour unconditionally, and section 333 establishing the corresponding penalty. The Committee notes however that, under sections 1 and 2, the Labour Code applies only to relations between employers and workers. The Committee asks the Government to take the measures to extend the prohibition of all forms of forced labour to employment relationships such as those between children and *marabouts*.

Pakistan (ratification: 1957)

The Committee notes the Government's report.

Debt bondage

1. The Committee has taken note of communications dated 29 August 2001 and 18 September 2001 of the International Confederation of Free Trade Unions (ICFTU), submitting comments on the observance of the Convention, copies of which were forwarded to the Government on 18 October 2001 and 25 October 2001, respectively, for any comments it might wish to make on the matters raised therein. In its communication dated 18 September 2001, the ICFTU alleged that forced labour is prohibited by law but is widespread in practice. The ICFTU referred to an estimate of the International Programme on the Elimination of Child Labour (IPEC) of the ILO that there are several million bonded labourers in Pakistan, a large percentage of whom are children. The ICFTU indicated that trade union studies found 200,000 families in bonded labour in the brick kiln industry alone. It alleged that the Bonded Labour System (Abolition) Act (BLSA) of 1992 prohibits bonded labour, but remains ineffective at addressing the problem in practice.

2. The Committee also notes the indications by the ICFTU that debt slavery and bonded labour, of adults as well as children, remain most often reported in agriculture, construction in rural areas, the brick kilns, and in carpet making. Estimates of the total number of forced labourers vary widely, but it is not disputed that, in many parts of Pakistan, the practice of debt slavery and bonded labour is still very prevalent, and has a long history. The ICFTU alleged that, while efforts carried out by non-governmental organizations, such as the Bonded Labour Liberation Front, have succeeded in freeing thousands of bonded labourers, this is a tiny proportion of the total number of bonded labourers, and the problem remains endemic. The ICFTU alleged that due to lack of alternatives, some freed debt slaves have reportedly returned to bonded labour.

3. The Committee notes the ICFTU communication of 29 August 2001, in which a report by Anti-Slavery International indicates that recent research by the non-governmental organization PILER (Pakistan Institute for Labour Education and Research) estimated the number of sharecroppers in debt bondage in the year 2000, across the whole of the country, to be over 1.8 million people. According to the report,

this estimate did not include forced labour which is demanded by the landlord of his tenants. The research estimated the upper limit of people in this form of bondage – using the broad definition of "the imposition of unpaid or nominally paid compulsory labour for the landlord on his farm or house *(begar)* regardless of the size of the debt" – to be 6.8 million people across Pakistan in the year 2000.

4. The report communicated by the ICFTU further indicates that PILER also carried out a survey of bonded *hari* settlements in Sindh Province and 1,000 individuals responded (representing more than 6,000 people). The report indicates that the respondents to the survey stated that 2,226 men, women and children were subject to restrictions on their freedom of movement and a further 608 men and women were chained. According to the report, this information clearly indicated that bonded labour affects millions of people in Pakistan and is accompanied by other extremely serious human rights violations.

5. The Committee notes the indications in the report of Anti-Slavery International that in April 2001 the Government published its revised "Draft National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers". The report indicates that this remains a draft and needs to be approved by the federal Cabinet. The Committee asks the Government to supply a copy of its draft national policy and plan of action, and that it provide information on its final approval and on the application of the policy and on implementation of the plan of action.

6. The Committee hopes that the Government will present its comments on the allegations on the matters raised in the reports communicated by the ICFTU.

Specific agreements aimed at eradicating bonded child labour

7. In its previous observation the Committee asked the Government to provide information on progress on the implementation of the agreement between the International Programme on the Elimination of Child Labour (IPEC) of the ILO and the Pakistan Carpet Manufacturers' and Exporters' Association (PCMEA), particularly as to the short-term goal of withdrawing from the carpet industry some 8,000 children over a three-year period. The Committee also asked the Government to provide information on progress on implementation of the agreement it signed in 1997 with the European Commission and the ILO to take measures aimed at the eradication of bonded child labour. The Committee once again expressed its concern about the Government's inaction in collecting reliable statistics on the numbers of bonded child labourers.

8. The Committee once again requests the Government to provide information on the progress in the implementation of these agreements and on the practical results achieved, and also to provide a report containing valid statistical data on the numbers of bonded child labourers. In its report the Government indicated that an establishment-based survey would soon be carried out through the Federal Bureau of Statistics to measure the incidence of child labour in hazardous occupations. The Committee requests the Government to supply information on and results from this survey, particularly as to the incidence of bonded labour.

Trafficking in persons

9. The Committee notes the allegations of the ICFTU, according to which trafficking in persons is a serious problem in Pakistan, including the trafficking of

children. It alleges that some reports suggest that more than 100 women are trafficked into Pakistan from Bangladesh each day, and sold for the purposes of prostitution or other forms of forced labour. According to these allegations, women also reportedly arrive from Burma, Afghanistan, Sri Lanka and India, many eventually to be bought and sold in shops and brothels in Karachi. There are estimated to be several hundred thousand such trafficked women in Pakistan, with some reports suggesting that the total number is as many as 1.2 million. The ICFTU indicates that estimates of the number of child prostitutes in Pakistan vary, but most suggest around 40,000.

10. The Committee notes the indications of the ICFTU that there are also reports of several hundred boys from Pakistan having been abducted and sent to the Persian Gulf States to work as camel jockeys. According to these allegations, child slavery and trafficking in children within Pakistan is a major problem, and kidnapping of children occurs, either for ransom, revenge against the child's family or simply for purposes of slavery. In some rural areas, children are sold into debt bondage in exchange for money or land.

11. The Committee hopes that the Government in its next report will respond to the allegations on the matters raised in the reports communicated by the ICFTU.

Restrictions on voluntary termination of employment

12. In its previous observation the Committee noted that the Government representative informed the Conference Committee in June 1999 that an amendment of the Essential Services (Maintenance) Act, under which government employees who unilaterally terminate their employment without consent from the employer are subject to a term of imprisonment, was to be considered by the tripartite Commission on the Consolidation, Simplification and Rationalization of Labour Laws. The Committee notes that in its report the Government indicated that the Commission's final report was expected at the end of September 2000. The Committee requests the Government to supply a copy of this report. The Committee trusts that the Government will take the necessary steps to bring the federal and provincial Essential Services (Maintenance) Act into conformity with the Convention, and requests that it supply information on the progress achieved towards that aim.

13. The Committee also asks, in this regard, that the Government provide the full text of the following Ordinances enacted in 2000: the Removal from Service (Special Powers) Ordinance, No. XVII of 27 May 2000; the Civil Servants (Amendment) Ordinance, No. XX of 1 June 2000; and the Compulsory Service in the Armed Forces (Amendment) Ordinance, No. LXIII of 6 December 2000.

Article 25 of the Convention

14. The Committee notes the allegation, contained in the report of August 2001 communicated by the ICFTU, that the Bonded Labour System (Abolition) Act of 1992 has not been applied, as few officials are willing to implement it for fear of incurring the wrath of the landlords, thus allowing them to use forced labour with impunity. The Committee also notes the allegation of the ICFTU, in its communication dated 18 September 2001, that the Bonded Labour System (Abolition) Act of 1992, in spite of the adoption of rules in 1995 to ensure the Act was implemented, remains ineffective at addressing the problem in practice.

15. The Committee has previously expressed concerns relating to inspections, prosecutions, and convictions of offenders under the Employment of Children Act 1991, the Employment of Children Rules 1995, the Bonded Labour System (Abolition) Act 1992, and the Bonded Labour System (Abolition) Rules 1995. In its previous observation the Committee requested the Government to supply information on measures taken to reinforce the effectiveness of vigilance committees, and also on the manner of cooperation and communication between the vigilance committees and the magistrates; and on the role of magistrates in the process of identifying, freeing and rehabilitating bonded labourers. In its report the Government indicated that it was consulting with the provincial chief secretaries to obtain further information on these questions. Bearing this in mind, the Committee requests the Government to supply further information on each of these questions.

16. The Committee expressed its concern over the role of magistrates in the process of identifying, freeing and rehabilitating bonded labourers. The Committee notes that information on this point has not been provided, and it therefore repeats its request that the Government provide information on this question.

17. The Committee has previously requested information on the number of inspections and of prosecutions and convictions of offenders under the Employment of Children Act 1991, the Employment of Children Rules 1995, the Bonded Labour System (Abolition) Act 1992, and the Bonded Labour System (Abolition) Rules 1995. The Committee notes that the data provided by the Government in its report concern only the Sindha Province, and do not indicate under what law(s) prosecutions have occurred. The Committee requests the Government to provide information from each of the provinces and on each of the relevant laws. It asks that, in general, the Government provide information on the enforcement of laws aimed at punishing the exaction of forced or compulsory labour, and on measures it has taken to ensure that penal sanctions applied are really adequate and are strictly enforced, as required by the Convention. The Committee hopes the Government will also provide its comments in reply to the matters raised in the reports communicated by the ICFTU.

Sierra Leone (ratification: 1961)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> In its comments made for a number of years, the Committee asked the Government to repeal or amend section 8(h) of the Chiefdom Councils Act (Cap. 61) under which compulsory cultivation may be imposed on natives. The Committee previously noted the Government's statement that the above-mentioned section is not in conformity with article 9 of the Constitution and would be held unenforceable. The Committee also noted the Government's indication that section 8(h) was not applied in practice and that information on any amendment of this section would be provided. In its report received in 1995, the Government stated that measures to change section 8(h) were evident in the new proposed Constitution.
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> The Committee therefore trusts that measures will be taken in the near future in order to bring section 8(h) of the Chiefdom Councils Act into conformity with the Convention and the indicated practice. It asks the Government to provide information on any progress made in this regard.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Singapore (ratification: 1965)

The Committee has noted the Government's report.

Articles 1(1) and 2(1) of the Convention. Over a number of years the Committee has been commenting on the Destitute Persons Act, 1989, which repeated without change certain provisions of the Destitute Persons Act, 1965. Under sections 3 and 16 of the 1989 Act, any destitute person may be required, subject to penal sanctions, to reside in a welfare home, and under section 13 of the same Act any person resident in such a home may be required to engage in any suitable work for which the medical officer of the home certifies him to be capable, either with a view to fitting him for an employment outside the welfare home or with a view to contributing to his maintenance in the welfare home.

The Committee has noted the Government's repeated statement that section 13 of the Act should be interpreted in the context of rehabilitation of the destitute persons and does not therefore constitute forced labour. The Government also states that imprisonment as a penalty for leaving the welfare home without permission does not involve compulsory labour.

The Committee recalls that, under *Article 2, paragraph 1,* of the Convention, the term "forced or compulsory labour" shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. The imposition of labour under the Destitute Persons Act, 1989, comes under this definition, and the Convention makes no exception for labour imposed "in the context of rehabilitation" of destitute persons. The Committee therefore expresses firm hope that measures will be taken in the near future to bring the abovementioned legislation into conformity with the Convention, either by making the admission of destitute persons to a welfare home and their stay therein (if it implies an obligation to work) subject to their consent or by amending section 13 of the Act so as to make any work in such homes to be done voluntarily.

Sudan (ratification: 1957)

Abolition of slave-like practices

1. For several years, the Committee has been examining, in relation to the application of the Convention, information concerning the practices of abduction, trafficking and forced labour affecting thousands of women and children in the southern regions of the country where an armed conflict is under way, but also in regions under government control. In its last observation, the Committee requested the Government to provide detailed information on the measures taken with a view to eliminating the exaction of forced labour. It requested the Government to take the necessary measures to ensure that, in accordance with the Convention, penal sanctions are imposed on persons convicted of having exacted forced labour, and to provide copies of the court decisions made. The Committee requested that the Government supply full particulars to the Conference at its 89th Session and to report in detail in 2001.

Conference Committee on the Application of Standards

2. In its conclusions adopted in June 2001, the Conference Committee on the Application of Standards expressed its profound concern at the serious situation in Sudan. It urged the Government to initiate systematic actions concomitant with the magnitude and gravity of the problem and to reply to the questions raised by the Committee of Experts, in particular with respect to the relevant preventive measures, identification of those responsible for exacting forced labour and the imposition of appropriate penal sanctions. The Conference Committee noted that the Government representative rejected the proposal that an ILO direct contacts mission should visit the country to work with the Government in finding solutions to eradicate the practice of forced labour, but had announced that it would consider that possibility. The Conference Committee decided to include this case in a special paragraph in its report as a case of continued failure to apply the Convention.

3. The Committee notes the information provided by a Worker member during the discussion of the Conference Committee, indicating that in October 2000 two representatives of Anti-Slavery International (ASI) visited Sudan to assess the impact of the work of the Committee for the Eradication of Abduction of Women and Children (CEAWC), an institution set up in 1999 and attached to the Ministry of Justice. The ASI representatives interviewed members of the CEAWC, the Dinka Committee, the Dinka community living in northern Sudan and former slaves living in three transit centres managed by the CEAWC. The information provided by the Worker member indicated that the ASI representatives found that government officials and others did not consider abducted persons who are absorbed into the household of another family, whether by sale, false adoption, marriage, or as a result of the passage of time, to be victims of human rights violations, let alone victims of slavery.

4. The Committee notes that, according to the information provided by the Worker member, the CEAWC has not pursued its mandate by prosecutions, but instead has chosen to adopt a procedure for identifying those who should be released and securing releases, which involves the participation of representatives of both the Dinka and the community holding them. However, this process has been unacceptably slow.

Special Rapporteur

5. The Committee also notes the information which a Government representative provided orally to the Conference Committee. The Committee notes that the Government representative pointed out that the April 1999 resolution of the United Nations Commission on Human Rights and the United Nations General Assembly, referred to "kidnappings" and "abductions", but not forced labour. According to the Government representative, his Government did not deny that kidnapping was taking place and was "particularly common" among certain tribes.

United Nations bodies

6. The Committee notes that in its resolution of April 2001 on the situation of human rights in Sudan (E/CN.4/RES/2001/18), the Commission on Human Rights once again expressed its deep concern about "the abduction of women and children to be subjected to forced labour or similar conditions". Similarly, in a resolution adopted in December 2000 by the General Assembly on the situation of human rights in Sudan

(A/RES/55/116), the General Assembly expressed its deep concern at "the occurrence, within the framework of the conflict in southern Sudan, of cases of forced conscription", and "the abduction of women and children to be subjected to forced labour or similar conditions".

7. The Committee also notes the Interim Report of the Special Rapporteur of the Commission on Human Rights of the United Nations on the situation of human rights in Sudan (UN document A/56/336), dated 7 September 2001.

8. The report of the Special Rapporteur includes the findings of his visit to Sudan from 9 to 14 March 2001, as well as an updating on the overall situation based on information collected since then. The Committee notes that in his conclusions and recommendations, the Special Rapporteur recognized that although some positive steps have been taken, he was of the opinion that there continues to be a need for a massive advocacy campaign. More specifically, the Special Rapporteur encouraged the Government of Sudan to take a public stand against abductions and in support of the CEAWC. He indicated that by the beginning of mid-2001, the CEAWC had only facilitated the return of approximately 550 abductees to their homes out of the total number waiting to be released, which was generally considered to between 5,000 and 14,000, although figures differed significantly, with some reports referring to much higher ones.

9. The Committee notes that the Special Rapporteur concluded that the Government needed to exercise all its influence on the Murahaleen. According to the Special Rapporteur, the Government shares responsibility, because the Sudanese army integrates the Murahaleen in its military action and in part finances, equips and deploys them. The Special Rapporteur believed that a clear and unambiguous policy on abductions would first of all avoid the recurrence of cases of abductions and allow the CEAWC to be more effective, particularly at the grass-roots level, thus facilitating the acceleration of the process of retrieval of abductees and the reunification of their families.

Comments from workers' organizations

10. The Committee notes the observations provided by the International Confederation of Free Trade Unions (ICFTU) in August 2001, which include information received from Anti-Slavery International (ASI). A copy of the ICFTU's submission was forwarded to the Government on 18 October 2001 in order that it could make any comments thereon it considered appropriate.

11. The information compiled by Anti-Slavery International and provided by the ICFTU was also submitted in June 2001 to the Working Group on Contemporary Forms of Slavery of the Sub-Commission on Promotion and Protection of Human Rights, of the Commission on Human Rights of the United Nations. The Committee notes the indications of ASI that, although the number of women and children abducted and enslaved during raids has varied over the years since the civil war restarted in 1983, it is undoubtedly the case that slavery remains a reality in Sudan with thousands of people awaiting release and new abductions still taking place.

Government response

12. The Committee notes that in its report, received in November 2001, the Government indicates that in June 2000 a delegation from the CEAWC visited Pibor town in Jongli State to document 12 Dinka, Taposa, Nuer and Anyuak children who had been abducted by the Murie, a tribe from southern Sudan. The delegation returned to Khartoum in July 2000 and was able to document eight cases. The Government indicated that two abductees had been reunified in Bor town, and two brought to Khartoum for medical treatment. The Government indicated that in February 2001, the CEAWC reunited four children with their families in Wau town, and that with the cooperation of the United Nations High Commission for Refugees, it managed to repatriate 118 Baggara abductees who had been held with the rebel movement in Yei town since 1997. These abductees reached Khartoum in March 2001.

13. The Committee further notes the response provided by the CEAWC, which appears to be on behalf of the Government, to Anti-Slavery International, concerning that organization's report "Is there slavery in Sudan?". The CEAWC response, sent on 30 August 2001, indicated that abduction among tribes in the west and south of Sudan has existed as long as the tribes have, and that it has its deep roots in various economic, social and cultural conditions. Its growth has been fostered by geographic distance and weakness of infrastructure in those regions, and also by a lack of awareness, education and security among tribes. The CEAWC response indicated that rebellions leading to the civil war have played a large role in the reappearance and exacerbation of this phenomenon. According to the CEAWC, it has become difficult to use traditional mechanisms to resolve the problem of mutual abduction.

14. The CEAWC response indicated that abduction is made a crime under article 162 of the Criminal Code, not under article 161 which deals with enticement, and that abduction is punishable by ten years' imprisonment. It also indicated that the slowness in procedures was the result of the more than ten years' accumulated effect of the practice of abduction, and that the vastness of the targeted area and its distance from media prevented the Government from extensively disseminating a "culture" of human rights. The CEAWC stated that the number of abductees it documented was only 1,200, and that there were difficulties in documenting and treating cases other than abduction. The CEAWC pointed out that its objectives were to support peaceful coexistence through raising awareness, restoring trust, resolving tribal conflicts, and strengthening basic and developmental structures. The CEAWC indicated that when abductees were identified, the procedure followed was immediately to remove the abductees from the abductor and transfer them to peace centres. According to the CEAWC, it deals with special and complex cases and keeps the best interests of the abductee in mind. The final decision is left to the abductee in cases involving older children and married women.

15. The Committee notes the rejoinder of Anti-Slavery International to the comments of the CEAWC, which was communicated to the Government on 12 October 2001. ASI commented on the indication that there were only 1,200 abductees documented by the CEAWC, pointing out that this was in strong contrast to the estimate of the Dinka Committee that a total of some 14,000 people are believed to have been abducted since 1986. ASI observed that the number of abductees reported by the CEAWC was not appreciably greater than the number reported a year earlier, and it therefore emphasized its very considerable concern that the CEAWC appeared not to

have been able to continue its work of releasing victims of abduction at a significant rate over the past year.

16. The Committee urges the Government to take a stronger stand to combat the practice of forced labour through kidnapping and abduction of women and children, which is conducted on such a massive scale in the country. This requires a firm and well-publicized approach by the Government in conjunction with official mechanisms for prevention, identification and penalizing such practices. The Committee trusts that the Government will soon be able to report on positive advancements in this respect.

Article 25 of the Convention

17. The Committee previously noted that the Government's report did not contain information enabling it to ascertain compliance with the provisions of *Article 25* of the Convention, under which "the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced".

18. The Committee noted that sections 161, 162 and 163 of the Criminal Act, 1991, pertain to abduction, kidnapping and forced labour, and that the penalty envisaged for the exaction of forced labour is only one year of imprisonment.

19. In its previous observation the Committee requested the Government to indicate the procedures for bringing to trial persons having exacted forced labour. The Committee further requested that the Government take the necessary measures to ensure that, in accordance with the Convention, penal sanctions are imposed on persons convicted of having exacted forced labour, and that it provide copies of the court decisions made. The Committee strongly urges the Government to provide this information in its next report.

Swaziland (ratification: 1978)

1. The Committee notes a communication received in June 2001 from the Swaziland Federation of Trade Unions (SFTU), which contains observations concerning the application of the Convention by Swaziland. It notes that this communication was sent to the Government in July 2001, for any comments it might wish to make on the matters raised therein. It hopes that the Government's comments will be supplied in its next report, so as to enable the Committee to examine them at its next session.

2. The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> *Articles 1(1) and 2(1), and 2(b), (d) and (e) of the Convention.* In its earlier comments the Committee referred to the Swaziland Administration Act, No. 79 of 1950, section 10(1)(p), (q) and (u) of which provided for orders requiring compulsory cultivation, anti-soil erosion work and other works of construction and maintenance. It expressed the hope that the necessary measures would be taken to amend these provisions in order to ensure observance of the Convention.
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> The Committee has noted the observations on the application of the Convention made in June 1999 by the Swaziland Federation of Trade Unions (SFTU). According to the SFTU's allegations, the new Swazi Administration Order of 1998, which repealed the Swaziland Administrations Act of 1950, legalizes forced labour, slavery and exploitation

with gross impunity and gives the chiefs the right to penalize non-compliance with the Order with fines, imprisonment, demolition without compensation, etc. The SFTU refers, inter alia, to sections 6, 27 and 28 of the 1998 Order, which provide for the duty of Swazis to assist the Ngwenyama and chiefs; the duty to attend before Ngwenyama, chiefs and government officers when so directed, under the threat of punishment; and the duty to obey orders requiring participation in compulsory works. The Committee has noted that these observations were transmitted to the Government in June 1999, for such comments as might be judged appropriate, and that no comments have been received from the Government so far.

The Committee has noted that the combination of sections 6, 21, 28(1)(p), (q) and (u) and 34 of the new Swazi Administration Order (No. 6 of 1998) provides for orders requiring compulsory cultivation, anti-soil erosion works and the making, maintenance and protection of roads with severe penalties for non-compliance. With reference to the comments it has been making for a number of years concerning Swaziland Administration Act, No. 79 of 1950, which contained similar provisions, the Committee observes that provisions of this kind are in serious breach of the Convention. They are not restricted in application to the circumstances contemplated in *Article 2(2)*, such as cases of emergency (fire, flood, famine, earthquake, violent epidemic or epizootic diseases, etc.) or minor communal services. The Committee also refers to paragraphs 36, 37 and 74 to 83 of its 1979 General Survey on the abolition of forced labour, in which it pointed out that, in order to be compatible with the Convention, such provisions should be limited in scope to cases of a calamity or threatened calamity endangering the existence or well-being of the population, or (in case of compulsory cultivation) to circumstances of famine or a deficiency of food supplies and always on the condition that the food or produce shall remain the property of the individuals or the community producing it, or (to fall under the exemption made for minor communal services) to cases where work is limited to minor maintenance and its duration is substantially reduced.

The Committee requests the Government to take the necessary measures to amend section 28(1)(p), (q) and (u) of the Swazi Administration Order, 1998 so as to ensure compliance with the Convention. It asks the Government to indicate the progress made in that respect and, in the meantime, to supply full information on the manner in which these provisions are being applied in practice.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

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Syrian Arab Republic (ratification: 1960)

The Committee has noted the information provided by the Government in reply to its earlier comments.

Freedom of persons in the service of the State to leave their employment

1. In comments it has been making since 1985, the Committee has noted that under Legislative Decree No. 46 of 23 July 1974, amending section 364 of the Penal Code, a term of imprisonment from three to five years may be imposed for leaving or interrupting work as a member of the staff of any public administration, establishment or body or any authority of the public or mixed sector before resignation has been formally accepted by the competent authority; or evading obligations to serve the same authorities, whether the obligation derived from a mission, a scholarship or a study leave. Further, the personal goods and property of the person concerned may be confiscated. As the Committee repeatedly pointed out, referring also to paragraphs

67-73, of its 1979 General Survey on the abolition of forced labour, persons in the service of the state should have the right to leave the service on their own initiative within a reasonable period, either at specified intervals or with previous notice.

The Committee has noted the Government's indications in its report concerning an exchange of letters with the Ministry of Justice regarding the possibility of amending the abovementioned Legislative Decree No. 46 of 1974. The Government also indicates that the Committee for Consultation and Tripartite Dialogue shall work on reviewing the draft decree amending the Penal Code so as to include amendments aimed at meeting this Committee's observations concerning the resignation of state employees. The Committee trusts that the necessary measures will be taken without further delay to ensure, both in law and in practice, that persons in the service of the State are free to leave their employment within a reasonable period, and that the Government will provide information on the action taken.

2. *Legislation on vagrancy.* In comments it has been making since 1987, the Committee referred to section 597 of the Penal Code, which provides for the punishment of any person who is reduced to seeking public assistance or charity as a result of idleness, drunkenness or gambling. Referring to the explanations given in paragraphs 45-48, of its 1979 General Survey on the abolition of forced labour, the Committee recalls that while the punishment of gambling or the abuse of intoxicating liquor is outside the scope of the Convention, the possibility to impose penalties for mere refusal to work is contrary to the Convention.

Referring also to its observation under Convention No. 105, the Committee has noted the draft legislative decree amending the Penal Code, a copy of which has been supplied by the Government. It has noted that, although the draft provides for removal from the Code of such terms as "imprisonment with labour" or "temporary hard labour", it does not change the essence of section 597. The Committee hopes that the Government will be able to take the necessary measures with a view to clearly excluding from the legislation any possibility of compulsion to work, either by repealing section 597 or by limiting the scope of its provisions to persons engaging in illegal activities, so as to bring legislation and practice into conformity with the Convention. Pending such revision, the Committee once again requests the Government to provide samples of recent judgements applying section 597 of the Penal Code.

3. *Article 2(2)(d) of the Convention.* In comments it has been making since 1964, the Committee has pointed out that certain provisions of Decree No. 133 of 1952 with respect to compulsory labour, particularly those of Chapter I (compulsory labour for purposes of health, culture or construction) and sections 27 and 28 (national defence work, social services, road work, etc.) provide for the call up of inhabitants for periods of up to two months, in circumstances that go beyond the exception authorized by the Convention for "any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity ... and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population".

The Committee previously noted the Government's indications in its reports that a legislative decree to replace Decree No. 133 of 1952 had been submitted to the competent authority. It has noted from the Government's report received in 1999 that the Ministry of Defence was asked for information about the progress made in the adoption of the draft Civil Defence Law which was intended to repeal Decree No. 133 of 1952. The Committee has also noted the Government's indication in its report received in 2000 that the Committee for Consultation and Tripartite Dialogue was about to work on the amendments to the various texts, including the abovementioned Decree, with a view to meeting the observations of the Committee of Experts.

The Committee trusts that the necessary measures will at last be taken to amend Legislative Decree No. 133 of 1952 so as to limit the possibility of exacting labour to situations of emergency as defined in the Convention, and that the Government will soon be in a position to report on the measures taken to this end, either through the adoption of the draft Civil Defence Law referred to above, or through some other action taken as a result of the deliberations of the Committee for Consultation and Tripartite Dialogue.

Togo (ratification: 1960)

Article 2, paragraph 2(c), of the Convention. In its previous comments, the Committee asked the Government to provide copies of any texts setting out practical arrangements and regulations for prison labour which may have been adopted pursuant to sections 22, 26 and 35(3) of the Penal Code of 1980.

In its last comment, the Committee noted that no such texts had been adopted but that the Government was planning enactment of the following, pursuant to the provisions of the Penal Code of 1980:

(a) a decree to establish the working conditions of prisoners and the disciplinary regulations of the establishment;

(b) an order to establish the working conditions, supervision and employment of convicted prisoners; and

(c) an order to establish the employment and working arrangements of persons sentenced to penal labour.

The Committee expressed the hope that the above text would be drafted in compliance with the conditions set forth in *Article 2, paragraph 2(c)*, of the Convention, that is, only persons convicted in a court of law may be subjected to compulsory labour and, furthermore, these persons must not be hired to or placed at the disposal of private individuals, companies or associations, either inside or outside prisons. However, the Committee also recalled that, as noted in paragraph 97 of its General Survey of 1979 on the abolition of forced labour, the Convention is not opposed to allowing certain prisoners the possibility of voluntarily accepting employment with private employers, subject to guarantees as to the payment of normal wages and social security, etc.

The Committee notes the Government's statement in its last report that it undertakes to provide the adopted texts shortly. The Government also states that pre-trial and other prisoners not convicted by a court of law are not compelled to perform any work other than the cleaning of cells.

The Committee takes due note of this information and asks the Government to provide copies of the texts in force governing the execution of penalties and the regulation of prison labour, and copies of the new texts as soon as they have been adopted.

Authority to requisition in the event of a strike. The Committee notes that section 7 of Ordinance No. 1 of 4 January 1968 issuing the General Public Service Regulations allows the Government to requisition public servants individually or in a group and stipulates that the authority to requisition must not be a means of opposing a strike by public servants in order to eliminate their claims. The Committee asks the Government to provide copies of the texts regulating the authority to requisition together with information on the penalties imposed for refusing to obey a requisition order.

Freedom of workers to leave their jobs. According to sections 105 and 106 of Ordinance No. 1 of 4 January 1968, an application to resign by a public servant will be accepted only if it has the agreement of the appointing authority. Refusals may be challenged before the Joint Administrative Committee, which sends a reasoned opinion to the competent authority for decision. The Committee observes that there is no provision which sets the criteria for refusal or a time limit for the decision. Nor is there any reference to the available means of challenging the decision of the above authority. The Committee observes that any termination of appointment exposes the public official to revocation and suspension of pension entitlements, which constitutes a penalty within the meaning of *Article 2, paragraph 1*, of the Convention.

In its General Survey of 1979 on the abolition of forced labour, the Committee considered that the effect of statutory provisions preventing termination of employment of indefinite duration by means of notice of reasonable length is to turn a contractual relationship based on the will of the parties into service by compulsion of law, and is thus incompatible with the Conventions relating to forced labour.

The Committee acts the Government to indicate the measures taken or envisaged to ensure that public servants are free to leave their employment by means of notice of reasonable length.

Article 2, paragraph 1. The Committee notes the summary report of the subregional project of the International Programme on the Elimination of Child Labour (IPEC/ILO, 2001) entitled "Combating trafficking in children for labour exploitation in West and Central Africa". According to this report, the Government started to tackle child trafficking three years ago. Special programmes to combat such trafficking are being implemented. The report on Togo indicates that 70 children repatriated to Togo after being sold abroad were between 6 and 14 years of age, and that 70 per cent of them were girls. Where girls have been the victims of such trafficking, they were younger than the boys: 88 per cent of the girls were under 15 years of age whereas 62 per cent of the boys were over 15. The girls who were repatriated had worked as servants in small restaurants in Niger or Burkina Faso and as itinerant traders, waitresses or servants in Gabon. In Togo the intermediaries entice the children by giving them a bicycle or a radio by way of payment. Togo is a receiving country for child trafficking and Togolese children are also victims of trafficking. The abovementioned report indicates that Togo has drafted a bill establishing a minimum age for the placement of children and punishing such trafficking. A national action plan was prepared in March 1999 by the Ministry of Social Affairs, which had also issued a directive on child trafficking in January 1998. The above report on Togo indicates that an agreement was signed in October 1984 between Ghana, Benin, Nigeria and Togo to facilitate the return of the victims of child trafficking and the extradition of the traffickers. Special programmes have been set up to combat child trafficking. The ILO/IPEC is on the point of starting programmes in Togo.

Article 25. According to *Article 25* of the Convention, the illegal exaction of forced or compulsory labour shall be punishable as a penal offence and any Member ratifying the Convention must ensure that the penalties imposed by law are really adequate and are strictly enforced. The Committee observes that, according to the Government's report, no proceedings have been initiated to punish persons responsible for trafficking in children for labour exploitation. The Committee asks the Government to provide a copy of the law establishing a minimum age for the placement of children and punishing child trafficking if it has been adopted, and a copy of the directive on child trafficking. Please also provide information on the evaluation of the national action plan of March 1999, the programmes to combat child trafficking and the agreement of 1984. The Committee also asks the Government to provide information on the legal proceedings instituted against those responsible and the penalties imposed.

Uganda (ratification: 1963)

1. *Abolition of slave-like practices.* The Committee previously referred to the alleged activities of the Lords Resistance Army (LRA) abducting children of both sexes and forcing them to provide work and services as guards, soldiers and concubines, these alleged activities being associated with killings, beatings and rape of these children.

According to the Government's indications in its report received in November 2000, abductions have been taking place in the northern region of the country, the most affected locations having been the districts of Lira, Kitgum, Gulu and Apac. According to the UNICEF report of 1998 referred to by the Government, more than 14,000 children have been abducted from districts in northern Uganda. The Government states that this large scale of abductions has been one of the most tragic aspects of the northern region conflict, forcing the vulnerable and innocent to become a part of the conflict, either as child soldiers, human shields and hostages or victims of sexual exploitation. The Government indicates that the age group between 10 and 15 years forms the largest percentage of abducted children, and boys between 8 and 15 years of age are the most targeted.

The Committee has noted that the Government is aware of the traumatic experience abducted children go through and that it has made a number of interventions to prevent such practices, which include, inter alia, the following: sensitization of communities and of political and military authorities in the armed conflict areas about proper handling of the children; sensitization on peaceful conflict resolution and ensuring the rights of the child; setting up of disaster management committees in all districts of insurgencies; and sensitization on issues of disaster preparedness and safety issues. The Government indicates that abducted children who have been retrieved are kept in children's centres where counselling services are provided and measures are taken for their reunification with their families and return to primary education; children are rehabilitated and equipped with vocational skills which enables them to be integrated into society. The Committee has also noted that the Government has declared amnesty by adopting the Amnesty Act, 2000, aiming at peaceful conflict resolution.

While noting the Government's efforts to improve the situation, the Committee nonetheless observes that continuing existence and scope of the practices of abductions and the exaction of forced labour constitute gross violations of the Convention. The victims are forced to perform labour for which they have not offered themselves voluntarily, under extremely harsh conditions combined with ill-treatment which may include torture and death, as well as sexual exploitation. The Committee considers that the scope and gravity of the problem are such that it is necessary to take urgent action that is commensurate in scope and systematic. It therefore requests the Government to continue to provide detailed information on the measures taken to eliminate these practices and to ensure that, in accordance with *Article 25 of the Convention*, penal sanctions are imposed on persons convicted of having exacted forced labour.

2. The Committee has noted the information provided by the Government in reply to its earlier comments. It has noted, in particular, that the draft employment bill to amend the Employment Decree No. 4 of 1975 contains specific provisions on forced labour (section 7), which follow the language of the Convention. The Committee requests the Government to supply a copy of the amending legislation, as soon as it is adopted.

3. *Articles 1(1) and 2(1) of the Convention.* In comments made for a number of years, the Committee has noted that, under section 2(1) of the Community Farm Settlement Decree, 1975, any unemployed able-bodied person may be settled on any farm settlement and be required to render service; and that section 15 of the Decree makes it an offence punishable with a fine and imprisonment for any person to fail or refuse to live on any farm settlement or to desert or leave such settlement without consent. The Committee has noted the Government's indication in its latest report received in November 2000 that the abovementioned Decree is being repealed under the law reform exercise of the Uganda Law Reform Commission, which is to be completed in 2001. The Committee trusts that the Decree will be repealed in the near future and requests the Government to supply a repealing text, as soon as it is adopted.

4. The Committee previously noted that under section 33 of the Armed Forces (Conditions of Service (Officers)) Regulations, 1969, the Board may permit officers to resign their commission at any stage during their service. The Committee has noted from the Government's latest report that the 1969 Regulations were replaced by the National Resistance Army (Conditions of Service (Officers)) Regulations No. 6 of 1993, and that section 28(1) of these Regulations contains a provision similar to that of section 33 of the 1969 Regulations referred to above. The Government indicates that the officer applying for the resignation must give his/her reasons for it, and the Board will consider these reasons and, if it finds them fit, will grant a permission to resign. Referring to the explanations given in paragraphs 67 to 73 of its 1979 General Survey on the abolition of forced labour, the Committee points out that career military servicemen who have voluntarily entered into an engagement cannot be deprived of the right to leave the service in peacetime within a reasonable period, either at specified intervals, or with previous notice, subject to the conditions which may normally be required to ensure the continuity of the service. The Committee therefore hopes that the necessary measures will be taken with a view to amending section 28(1) of the 1993 Regulations No. 6 so as to bring it into conformity with the Convention. Pending such amendment, the Committee requests the Government to provide information on the application of section 28(1) in practice, indicating in particular the criteria applied by the Board in accepting or rejecting a resignation, and to supply a copy of a complete text of these Regulations.

5. The Committee previously noted that by virtue of the provisions of section 5(2)(a) and (b) of the Armed Forces (Conditions of Service (Men)) Regulations, 1969, the term of service of persons enrolled below the apparent age of 18 years might extend until they are 30 years of age. The Committee has noted with interest the Government's indication in its latest report that this provision was repealed by the National Resistance Army (Conditions of Service (Men)) Regulations No. 7 of 1993, section 5(4), under which a person below 18 years or above 30 years shall not be employed in the Ugandan army. The Committee would appreciate it if the Government would supply a copy of these Regulations with its next report.

6. *Article 2(2)(c).* The Committee has noted the information concerning employment of prisoners provided by the Government. It requests the Government to supply, with its next report, a copy of the provisions of the Prisons Act (Cap. 313) governing this issue.

United Arab Emirates (ratification: 1982)

Articles 1, paragraph 1, and 25 of the Convention. Referring to its observation made under Convention No. 138, the Committee has noted the communications received from the International Confederation of Free Trade Unions (ICFTU) in August 2000 and September 2001 concerning work by children as camel jockeys, as well as the Government's reply to these communications.

According to the ICFTU's comments referring to information received from Anti-Slavery International, numerous young boys of five or six years of age are being trafficked (either kidnapped, sold by their parents or taken under false pretences) to the United Arab Emirates to be used as jockeys in camel races. They are thereby separated from their families and taken to a country where the people, culture and language are completely unknown to them. According to the information received, the boys are often mistreated, underfed and subjected to severe diets before races so as to be as light as possible. The ICFTU indicates that the Ansar Burney Welfare Trust International (ABWTI) has rescued 49 children from camel stables in the UAE during the first five months of 2001; the ABWTI estimates that approximately 30 boys a month are being kidnapped in Pakistan alone and taken to the UAE. The comments emphasize that the children are separated from their families and thus completely dependent on their employers and de facto coerced into working.

In its reply, the Government states that the ICFTU's communication refers to separate incidents and events that took place in 1997, 1998 and 1999, and that some time is needed to examine these events and the accusations, which requires gathering information from several sources. It points out that the employment of children under the age of 15 is a clear violation of section 20 of the Federal Labour Code No. 8 of 1980, and that current laws prohibit the buying of children, their exploitation or mishandling (sections 346 and 350 of the Federal Penal Code of 1987). The Government also states that such matters as kidnapping of children, their sale, or smuggling into the country away from their parents, occur outside the territory of the UAE, where such crimes are penalized, if they are proven. It also indicates that the internal statutes on camel races in the UAE contain a set of rules prohibiting the exploitation of children in camel racing (section 14), and that 42 persons have been returned to their countries at the Emirates' expense, following the violations of these rules. Finally, the Government informs that the Ministry of Labour and Social Affairs has carried out consultations with the relevant state bodies to obtain information on the events referred to in the ICFTU's comments, with a view to transmitting any new information on these issues to the ILO.

The Committee notes these indications. It also refers in this connection to the report of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/1999/71), which states that "in 1993, the Camel Jockeys Association of the United Arab Emirates finally prohibited the use of children as jockeys. New evidence, however, clearly indicates that the rules are being blatantly ignored. In February 1998, ten Bangladeshi boys, aged between five and eight, were rescued in India while being smuggled to become camel jockeys". While being aware that these events occurred outside the territory of the UAE, the Committee refers to its general observation published in 2001 under the Convention, where it asked governments to supply information, inter alia, on measures designed to strengthen the active investigation of organized crime with regard to trafficking in persons, including international cooperation between law enforcement agencies with a view to preventing and combating the trafficking in persons.

The Committee urges the Government to take all the necessary measures, in cooperation with the other governments concerned, to eradicate the trafficking in children for use as camel jockeys and to punish those responsible through the strict enforcement of adequate penal sanctions. It hopes that the Government will provide full information on the action taken, including information on legal proceedings instituted against those involved in trafficking and on any penalties imposed.

United Kingdom (ratification: 1931)

The Committee has noted the information supplied by the Government in its report received in November 2000 and the comments on that report made by the Trades Union Congress (TUC) in a communication of 23 November 2000, a copy of which was sent to the Government for any further comments it might wish to make. The Committee has also noted the Government's statements to the Conference Committee on the Application of Standards in 2000 and 2001, as well as the discussion on the observance of the Convention in the United Kingdom that took place in the Conference Committee in 2000.

I. Domestic workers from abroad

1. In its previous observation, the Committee had noted that following concerns at reports of abuse of domestic workers accompanying their employers to the United Kingdom, a number of conditions under which they were admitted had been reviewed with the assistance of Kalayaan, the organization which represents overseas domestic workers, and a number of changes had been agreed with effect from 23 July 1998. Noting also that serious problems remained with the effective implementation of the new rules as set out in an observation by the TUC, the Committee hoped that these problems would be addressed in discussions that were to take place between the Government and Kalayaan, and that the Government would supply information on further measures taken. In its report, the Government indicated that, as a result of a November 1999 meeting between the Minister for Immigration and representatives of Kalayaan, special casework procedures were agreed and are in operation and a significant number of outstanding

applications for the regularization of overseas domestic workers' stay have been cleared. The Government also supplied information on three specific cases referred to by the United Kingdom Worker member at the Conference Committee, as well as copies of a form that employers must complete before obtaining entry clearance for a domestic worker and of an information leaflet provided to all domestic workers from overseas which includes details of employment rights and contact addresses. The Committee noted that these details centre on the terms and conditions of employment as set out by the employer himself in the abovementioned form, to be seen and agreed by the employee, and otherwise contain a general reference to protection "by regulation on matters including rest breaks, paid holidays, sex and race discrimination, and maternity and parental leave". With regard to criminal law, the leaflet specifies that everybody in the United Kingdom has full protection, whatever the nationality or conditions of stay, and provides examples regarding sequestration, rape and violence. The Committee takes due note of these indications and hopes that the Government will also comment on the statement made by the United Kingdom Worker member at the Conference Committee in 2000 that "the underlying problem, which still appeared to be unresolved, was that the de facto relationship under which the domestic worker was admitted to the United Kingdom was not recognized under British law, so that normal legal employment protections did not attach".

2. In earlier direct requests, the Committee had noted the indications of the Government concerning the cases of abuse of domestic workers which had been brought before the courts, and requested the Government to communicate details concerning the court decisions, including the number of convictions and the penal sanctions imposed, in accordance with Article 25 of the Convention. In its report, the Government replied that, as had been explained previously, it is unable to provide details of individual cases brought before the courts as the Home Office Court Proceedings Central Database does not record cases by gender, status or nationality of the victim. The Committee notes this explanation.

II. Prisoners working for private companies

3. Further to its previous comments, the Committee notes the Government's statement to the Conference Committee in 2000 that no prisoner in the United Kingdom – whether in a publicly run or privatized prison or workshop – was hired to, or placed at the disposal of, private individuals, companies or associations. The Government explained that while private sector companies might supervise the work on a day-to-day basis, the prisoner remained under the ultimate care and control of prison service officials; wages were paid to prisoners by the prison and not by the private company providing the work; and the Government considered that its present policies for the employment of prisoners conformed with the requirements of the Convention and were in the best interests of prisoners. These views were repeated in the Government's latest report on the Convention and rejected by the TUC in its comments on that report.

The Committee has taken due note of these views and comments. With regard to the notions of "hiring to" and "placing at the disposal of" and their relationship with "public supervision and control" and the flow of payments among the various parties involved, the Committee refers to the explanations given in paragraphs 96 and 118-127 of its general report to the International Labour Conference in 2001 and in points 6 and 7 of its general observation on the Convention this year, confirming the conclusion that the exception from the scope of the Convention provided for in *Article 2(2)(c) of the Convention* for compulsory prison labour does not extend to privatized prisons and prison workshops – even under public supervision and control.

4. In its previous comments the Committee recalled that, to be compatible with the Convention, work of prisoners for private companies thus must depend on the freely given consent of the workers concerned. This requires, inter alia, the absence of any menace of a penalty or duress such as making work an element in assessing behaviour for the purposes of reduction of sentence. Moreover, in the context of a captive labour force having no alternative access to the free labour market, "free" consent to a form of employment going prima facie against the letter of the Convention needs to be authenticated by arm's length conditions of employment approximating a free labour relationship, such as the existence of a labour contract between the prisoner and the private company using his or her labour and free labour market-oriented conditions regarding wage levels, social security and safety and health. With this background, referring also to its general observation under the Convention, the Committee once more addresses the following matter.

A. *"Outside employment"*

5. In its previous observation, the Committee noted with interest the Government's indication in its 1999 report that:

> There are a number of prisons which allow the release, on a daily basis, of prisoners in the last six months of their sentence to enable them to work. These prisoners are normally employed within a free labour relationship as a part of their rehabilitation and resettlement back into society.
>
> ...
>
> Prisoners who do work out are subject to normal requirements in respect of income tax and national insurance contributions from the wages they receive for their work. However, it should be noted that:
>
> - prisoners who work outside are released on temporary facility licence (under rule 9(3)(b) of the Prison Rules, 1999) with the main or primary purpose of allowing them to undertake work for outside employers, and are working "in pursuance of prison rules". They are therefore excluded from the national minimum wage by virtue of section 45 of the National Minimum Wage Act, 1998;
> - it is, nevertheless, prison service policy that such arrangements must not give an unfair competitive advantage to those who employ prisoners, and employers must not treat prisoners less favourably than other workers in comparable employment. It is expected, therefore, that prisoners who work for outside employers, doing a normal job ..., will be paid the appropriate rate for the job. Where prisoners work less than the normal working week, it is acceptable for them to be paid pro rata.

6. The Committee had hoped that prisoners who were thus released on a daily basis to work for outside employers, doing a normal job "within a free labour relationship", would benefit from general labour legislation, and that in view also of prison service policy regarding the payment of normal wages, the anomaly of their exclusion from the National Minimum Wage Act, 1998, would be resolved.

7. In response, the Government indicated in its latest report that:

> Release from prison can only be ordered by the courts. Prisoners involved in outside work have been licensed by the prison Service to leave prison for the purpose of attending work. The Government therefore continues to be of the view that such prisoners are not "released" to engage in employment.

The Committee notes the subtlety of these distinctions but must point out that they contradict not only the Government's previous report, as quoted in paragraph 5 above, but also the very terms of rule 9 of the Prison Rules, 1999 which provides that:

> (1) The Secretary of State may ... release temporarily a prisoner to whom this rule applies.
>
> (2) A prisoner may be released under this rule for any period or periods and subject to any conditions.
>
> (3) A prisoner may only be released under this rule: ... (b) to engage in employment ...

8. The Government further explained in its latest report that "prisoners are not covered by the National Minimum Wage Act because they do not constitute a 'worker' as defined by section 53(3) of that Act in that they do not have a contract of employment or a contract for personal work or services". The Committee notes these explanations but must recall that it is precisely on these points that a change in law and practice appears desirable and feasible for outside employment in the light of the Government's indications in its 1999 report. Prisoners "employed within a free labour relationship" ought to have a contract of employment with the private enterprise using their services and labour legislation, including the minimum wage legislation, should be made applicable to such employment. The Committee hopes that measures will be taken to introduce the corresponding changes in law and practice.

9. In its report, the Government further states:

> Another relevant factor is that prisoners' accommodation, clothing, meals, etc., are provided by the prison service, without any costs to the prisoner. It is therefore likely that a prisoner undertaking outside employment and benefiting from the national minimum wage would, in practice, be at an advantage to a person outside prison doing the same work for the same wages, who would be expected to pay for his or her own accommodation, clothing and meals.

Commenting on this, the TUC expresses surprise:

> ... that the Government fails to mention the Prisoner's Earnings Act, 1996, which addressed the matter of prisoners earning "enhanced wages" for work which is not "directed work" in pursuance of prison rules, and provides, inter alia, for deductions for such costs, for income tax and national insurance deductions, for attachments to earnings to support the prisoner's family or for victim support, and for savings to be used on release to aid social reintegration. Section 1(3) of the Act specifically alludes to earnings paid otherwise than by the prison governor on behalf of the Secretary of State.

In this connection, the Committee refers to paragraph 142 of its general report to the International Labour Conference in 2001, where it recalled that in the free labour market wages may, in the words of Articles 8 and 10 of the Protection of Wages Convention, 1949 (No. 95), be subject to "deductions" and "be attached or assigned" under conditions and within limits prescribed by national laws or regulations. For prisoners employed by private enterprises, this implies that their wages may also be subject to deductions for board and lodging provided and "be attached or assigned" so as to satisfy compensation claims of victims as well as alimony or other obligations of the prisoners, both of which would be illusory if exploitative wage rates prevailed.

B. Contracted-out prisons and prison industries

10. The Committee once more notes with regret that the necessary measures to ensure that any work by prisoners for private companies be performed under the conditions of a freely consented upon employment relationship – as recalled in paragraph 4 above and to a certain extent implemented in "outside employment" of prisoners with private employers – have so far not been taken with regard to prisoners working in contracted-out prisons and prison industries.

11. In its report received in November 2000, the Government indicates, with regard to the work performed in contracted-out prisons or workshops in the United Kingdom, that:

> All prisoners, whether they are in a public or privatised prison, and whatever work they may be involved in, remain under the ultimate supervision of the State in the United Kingdom. The Government also continues to be of the view that no prisoner is "hired" to a private company. Private companies do not pay the Prison Service to provide it with labour. Nor are prisoners placed "at the disposal" of a private company. Such a term implies private companies being allowed to use prisoners for whatever purposes they wish, whereas the work that prisoners perform in contracted-out prisons or prison industries in the United Kingdom is specific and is comparable with that done by prisoners in public prisons, with the same audit baselines monitored by public authority.

12. The Committee has taken due note of these indications.

(a) As regards "ultimate supervision" and "audit baselines" monitored by public authority, the TUC in its comments has expressed the view that "ultimate supervision" does not amount to day-to-day supervision, which in contracted-out prisons is performed by employees of private companies and does not meet the requirements of the Convention. In this regard, the Committee, referring also to paragraphs 119 and 120 of its general report of last year, wishes to recall that even where prisoners remain at all times under the supervision and control of a public authority, this does not in itself dispense the Government from fulfilling the other condition in *Article 2(2)(c)*, namely that the person is not hired to or placed at the disposal of private individuals, companies or associations.

(b) As regards the Government's statement that prisoners are not "hired" to private companies because these do not pay the prison service to provide them with labour, the Committee notes the comment made by the TUC that:

> If private companies are paying £50 million annually to prisons for the fulfilment of contracts, and that £50 million is not being paid in wages to prisoners, to whom is it being paid?

(c) As regards the notion of "placing at the disposal", the Committee refers to the explanations given in paragraph 123 of its general report of last year and point 7 of its general observation this year.

13. In its report received in November 2000, the Government further indicated that in its view:

> ... there is, under Convention 29, no requirement that conditions approximating a free employment relationship are necessary to ensure the consent of prisoners to work.

With regard to, in the terms of *Article 2(1)* of the Convention, "voluntary offer" of services by a person deprived of the choices of the free labour market, the Committee refers to the explanations set out in paragraphs 128 to 142 of its general report of last year and recalled in points 10 and 11 of its general observation, showing the need for arm's length conditions of employment approximating those accepted by workers having access to the free labour market.

14. The argument about "conditions approximating a free employment relationship" should not divert attention from the fact that in privatized prisons and prison workshops in the United Kingdom even the formal consent of prisoners to work does not appear so far to be asked for. In addition, where the Government in its report referred to prison service pay schemes designed to allow the prison to establish an in-house "labour market" that rewards prisoners for good performance "when addressing those issues identified as necessary to assist with their resettlement, as well as tasks that are performed to allow a prison to function", the TUC in its comments asked how such schemes, if they have become an integral part of assessing, for example, a prisoner's eligibility for parole, are compatible with the requirement that no duress should be applied in order to persuade a prisoner to perform work for a private company. It is noteworthy that in the one field where the Government appears to reckon with prisoners' consent, namely "outside employment", it is also expected, in the terms of the Government's report recalled in paragraph 5 above, "that prisoners who work for outside employers doing a normal job" will "be paid the appropriate rate for the job".

15. **The Committee again expresses the hope that with regard to contracted-out prisons and prison industries, the necessary measures will be taken to ensure that any work by prisoners for private companies be performed under the conditions of a freely consented upon employment relationship and that the Government will soon be in a position to indicate steps made to this end.**

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Angola, Antigua and Barbuda, Azerbaijan, Bahamas, Belarus, Belize, Benin, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, China (Hong Kong Special Administrative Region), Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Dominican Republic, Egypt, Estonia, Fiji, France, Ghana, Guatemala, Guinea, Haiti, Hungary, Kenya, Kyrgyzstan, Lebanon, Liberia, Lithuania, Madagascar, Mauritania, Mauritius, New Zealand, Niger, Nigeria, Papua New Guinea, Poland, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Syrian Arab Republic, Tajikistan, Ukraine, United Arab Emirates, United Kingdom, Yemen.*

Information supplied by *Ecuador* and *Seychelles* in answer to a direct request has been noted by the Committee.

Convention No. 30: Hours of Work (Commerce and Offices), 1930

Equatorial Guinea (ratification: 1985)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the Government's indication. The Committee observes that a new Law No. 12/1992 of 1 October 1992 on trade unions and labour relations has been promulgated. The Committee notes the Government's statement that the detailed rules applying in certain situations and referred to in section 49 of the Labour Law of 1990 have

not yet been adopted. The Government endeavours to adopt such rules and expects the representative organizations to help in the drafting.

The Committee asks the Government to communicate the rules adopted in compliance with the Convention after having consulted the employers' and workers' organizations concerned.

The Committee also asks the Government to provide information on the practical application of the Convention, including for instance, extracts from the reports of the inspection services and all relevant information, as requested under *Part V of the report form*.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 32: Protection against Accidents (Dockers) (Revised), 1932

Algeria (ratification: 1962)

1. Further to the comments it has been making for several years, the Committee notes with regret that the Government's report does not contain information concerning the adoption of implementing legislation covering ports and docks, based on the general framework for the prevention of occupational risks established by Act No. 88-07 of 26 January 1988. In its latest report, while acknowledging the absence of legislation and collective agreements covering this category of workers, the Government indicates there exists a category of posts established in collective agreements that relate to cargo handling, and that dockworkers have been regularized since 1974 and that their conditions are above those required by the Convention. The Committee has been encouraging the Government to adopt the long-promised specific texts of application for a number of years. It considers the absence, since 1975, of legal texts applying the provisions of a Convention ratified in 1962 to be a serious situation. The Committee notes that there is not even a reference to the promised texts in the Government's last report. It trusts the Government will not fail to urgently finalize the adoption of the implementing legislation based on Act No. 88-07 of 26 January 1988, with a view to ensure full conformity with the provisions of the Convention.

2. Further to its previous comments, the Committee notes the Government's report does not contain the requested copies of Executive Decree No. 93-120 of 15 May 1993 on the organization of occupational medicine and Executive Decree No. 96-209 of 5 June 1996 on the composition, organization and functioning of the national council on occupational safety and health, copies of provisions concerning safety and health contained in the collective agreement governing employment relations at the port enterprise, ARZEW, and in the internal regulations of the port enterprise of Algiers. The Committee would be grateful if the Government would supply copies of these documents with its next report.

3. In its previous comments, the Committee had noted the information that copies of the "documents 1 and 2" referred to in section 2 of the Inter-Ministerial Order of 5 November 1989 as establishing the supervisory procedure and as being attachments to the same Order, had been requested from the Ministry of Transport and that they were to

be supplied to the Committee as soon as they were received. Please supply copies of these documents with the next report.

[The Government is asked to report in detail in 2002.]

Argentina (ratification: 1950)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. In response to the Committee's previous comments, the Government's report refers to the provisions of Act No. 19857 respecting health and safety at work and Regulation No. 351/79, as well as Act No. 24557 respecting danger in the workplace. The Government states that whilst the legislation in force includes general points which refer to access, fencing, gangways, chains, motors and cranes, there are no specific standards concerning activities in ports. Under these circumstances, the Committee would be grateful if the Government would provide a detailed report to enable it to examine, for each of the Articles of the Convention, the information required by the report form, in particular the information concerning the following Articles of the Convention: *Article 8* (the measures of security for hatch coverings and beams used for hatch coverings), *Article 14* (prohibiting the removal of or interference with any fencing, gangway, gear, ladders, etc.), *Article 13, paragraph 2* (the rescue of immersed workers from drowning), and *Article 18* (agreements of reciprocity).
>
> 2. The Committee had noted that the Union of Maritime Workers of Argentina had submitted two denunciations (Cases Nos. 1005531 and 1005537, 1995) to the National Department of Health and Safety at Work in respect of accidents which had occurred in the ports of Argentina. The Committee would be grateful if the Government would inform it of the results of the procedures adopted for the organization of the above workers as well as the measures taken to resolve the issues raised. Please also provide general information in respect of the application of the Convention as required under *Part V of the report form*.
>
> 3. Finally, the Committee wishes to recall to the Government the request formulated by the Governing Body of the member States of the Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32), to examine the proposal to ratify the Occupational Safety and Health (Dock Work) Convention, 1979, (No. 152), whose ratification implies, *ipso jure*, the immediate denunciation of Convention No. 32 (see document GB.268/8/2, paragraphs 99-101). Please provide information in the next report in respect of the procedures which have been envisaged for the eventual ratification of Convention No. 152.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

New Zealand (ratification: 1938)

1. The Committee notes the information provided by the Government in reply to its previous comments regarding the number and causes of all kinds of accidents reported and the number of workers covered by the relevant legislation.

2. The Committee notes with interest the publication in 1997 of the Port Safety Guidelines that give guidance on the application of the Health and Safety in Employment Act in port operations. These guidelines, which are based on the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152), are currently being revised with the intent that they will be issued as an Approved Code of Practice under the Act. It is also intended that, once an Approved Code of Practice is published,

the superseded General Harbour Regulations will be revoked. The Committee also notes with interest the information that, in addition to the guidelines, a range of material is published by the Occupational Safety and Health Service, summarizing the requirements and providing guidance to the Act. The Committee further notes with interest the information that in February 1999, New Zealand and Australia signed a memorandum of understanding recognizing each other's inspections as equivalent. Thus, a vessel inspected in Australia en route to New Zealand will only be inspected in New Zealand if a deficiency was reported in Australia.

3. The Committee notes the comments made by the New Zealand Council of Trade Unions expressing a number of concerns.

(i) The NZCTU indicates that unions affiliated to it have raised concerns about delays in obtaining assistance from either the Occupational Safety and Health (OSH) service within the Department of Labour or the Maritime Safety Authority (MSA). It indicates that while the waterfront industry is a 24-hour one, there are often delays in obtaining assistance on weekends and at night. It states that these issues are more pronounced in regional ports. The Committee notes the reply given by the Government that OSH has a 24-hour call-out policy in respect of accidents. It adds that an emergency mobile number is usually contained in each OSH branch office's after-hours message. The NZCTU states that the immediacy of the response depends upon the nature and gravity of the event being reported. If any problems are experienced in particular instances, the unions concerned are able to contact the OSH service manager in the first instance, or the national service manager in the second instance. The Committee would be grateful if the Government would continue to provide information on the workings of the arrangements in place for assistance during weekends and nights.

(ii) The NZCTU is also concerned about what it calls the unclear jurisdictions between OSH and MSA, which potentially creates instances where neither agency claims responsibility for specific waterfront accidents and hazards. It indicates that one example provided to it involved the malfunctioning of a crane that was being driven by a waterfront worker on a ship. While normally the MSA would assume responsibility for incidents on board ships, the situation supposedly fell outside their jurisdiction because the crane was not being driven by a member of the crew. In its reply, the Government states that if any problems are experienced in a particular instance, the union concerned should contact the OSH service manager or the national service manager. The Committee would be grateful if the Government would continue to provide information on how potential difficulties of jurisdiction are being resolved without prejudice to the workers' requirements of assistance due to accidents and hazards.

(iii) The NZCTU also reiterates its previous requests that the Government report on waterfront injury rates, as well as fatalities. This would, in its view, provide a more useful assessment of the incidence and severity of accidents. It indicates that relevant data could include serious harm accidents notified to OSH, and moderate to serious work-related claims recorded by the Accident Insurance Regulator. The Government replies that it does not collect separate figures on waterfront injuries and is not therefore able to supply separate data. It states that the Accident Regulator is able to provide data on claims by occupation only, not by place of accident, which will not necessarily result in accurate data in respect of waterfront injury rates. The Committee would be grateful if the Government would continue to provide all available data that may help identify the particular location of accidents and thus permit a better assessment of the incidence and severity of accidents.

The Committee wishes to recall the invitation formulated by the Governing Body to States parties to Convention No. 32 to contemplate ratifying the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152), the ratification of which, *ipso jure*, will involve the immediate denunciation of Convention No. 32. The Committee would be grateful if the Government would provide information in this regard.

Pakistan (ratification: 1947)

Further to its previous observation based on the comments made by the Fishing Vessels Employees' Union of 1991 concerning the working conditions of coastal fishermen, the Committee notes from the Government's report that the updated Pakistan Merchant Shipping Ordinance, 2001, is in the process of approval. The Government states that as soon as it is adopted, a copy of the text will be provided to the ILO. The Committee reiterates its hope that this text, as well as subsequent rules, will be adopted shortly and that their provisions will give effect to the Convention. The Committee requests the Government to provide a copy of the texts as soon as they have been adopted.

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In addition, requests regarding certain points are being addressed directly to the following States: *Bangladesh, Bulgaria, Canada, Chile, China* (Hong Kong Special Administrative Region), *Kenya, Malta, Mauritius*.

Convention No. 33: Minimum Age (Non-Industrial Employment), 1932

Côte d'Ivoire (ratification: 1960)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> With reference to its general observation of 1997, the Committee noted the Government's statement in the report received in August 1998 concerning the Minimum Age (Industry) Convention, 1919 (No. 5), to the effect that children are frequently employed as domestic workers (housemaids), which could lead to abuse and that the authority's attention had been drawn to the need to regulate this sector. The Committee also noted that, according to the report for the Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33), the Government had organized seminars to eradicate the employment of children for domestic work.
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> The Committee requests the Government to provide more detailed information with regard to any measures taken concerning the employment of children for domestic work.

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In addition, requests regarding certain points are being addressed directly to the following States: *Côte d'Ivoire, Guinea*.

Convention No. 41: Night Work (Women) (Revised), 1934

Central African Republic (ratification: 1960)

For more than 30 years, the Committee has been requesting the Government to bring national legislation into conformity with the requirements of the Convention by amending section 3 of Order No. 3759 of 25 November 1954, which authorizes exemptions from the prohibition of night work for women in circumstances which are not permitted by the Convention. The Committee regrets that the Government is still not in a position to report any progress in this regard other than merely indicating that the Order in question will be amended following the adoption of the new draft Labour Code. The Committee can only hope that the adoption of the new Labour Code and, subsequently, the repeal of the Order will not be excessively delayed.

In addition, the Committee ventures to draw the Government's attention to paragraph 194 of this year's General Survey on the night work of women in industry in which the Committee concluded that "not only is Convention No. 41 poorly ratified and its relevance is diminishing, but also that it would be in the interest of those member States which are still parties to this Convention to ratify instead the revising Convention No. 89 and its Protocol which allow for greater flexibility and are more easily adaptable to changing circumstances and needs". Recalling that the Government in some of its earlier reports had indicated that it was considering the ratification of Convention No. 89, the Committee hopes that appropriate action will be taken shortly and asks the Government to report on any decisions taken in this matter.

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In addition, requests regarding certain points are being addressed directly to the following States: *Chad, Gabon.*

Convention No. 45: Underground Work (Women), 1935

Guinea-Bissau (ratification: 1977)

The Committee notes the Government's report. With reference to its previous comments, it notes with regret that no specific legislation has yet been adopted under section 155(4) of the Labour Code, in order to establish the conditions or prohibitions concerning the employment of women in arduous, unhealthy and underground works, or in other works likely to harm their reproductive function. In its report, the Government considers that section 155(3) of the Labour Code, which ensures the access of women to any employment, occupation or position, not entailing any effective or potential risk for their reproductive health, implies clearly that women are prohibited to be employed in underground works. The Committee, however, is bound to recall that, as the Government itself admits in its report, section 155(4) of the Labour Code provides for the adoption of specific legislation in this respect. The Committee notes the set-up of a committee charged with the revision of the Labour Code, the purpose of which is to elaborate this new legislation. It also notes the draft statutory order on the amendment of the Labour Code, which was prepared in October 2000 and was attached to the Government's report. While noting that, according to its report, there are no underground works in Guinea-Bissau, the Committee urges the Government to make every effort, in order to give effect to the provisions of the Convention, on which it has been commenting for several years. It requests the Government to communicate in its next report any progress achieved in this regard, and to supply a copy of the new legislation revising the Labour Code, as soon as adopted.

* * *

A request regarding certain points is being addressed directly to *Cameroon*.

Convention No. 52: Holidays with Pay, 1936

Central African Republic (ratification: 1964)

For many years the Committee has observed that article 129, paragraph 2, of the Labour Code provides that the right to paid holiday does not obtain before a period of service of 24, sometimes 30 months, whereas *Article 2, paragraph 1, of the Convention* sets the period at one year. In spite of the preparation of a modification of this provision in 1980 and 1988, with technical assistance from the ILO, and a statement from the Government at the Conference Committee in 1992 confirming that the procedure of modification had been undertaken to bring this into conformity with the Convention, the Committee once again notes that the Government's most recent report only mentions that it has taken into consideration this concern by the Committee of Experts with regard to the preparation of a new Labour Code. The Committee recalls that within the scope of the Convention, the right to an annual holiday with pay of at least six working days is an entitlement after one year of continuous service. The Committee expresses its firm hope that the Government will make every effort to take the necessary measures in the very near future.

Article 8 of the Convention. The Government indicates in its report that there is no sanction in the Labour Code for employers who do not respect the provisions of the Convention. The Committee recalls that any Member which has ratified the Convention is required to have a system of sanctions to ensure its application as well as to provide reports with information on the organization and functioning of the inspection service. It hopes that here as well the Government will take adequate measures to bring its legislation into conformity with the Convention.

[The Government is asked to send a detailed report in 2003.]

Côte d'Ivoire (ratification: 1961)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In its previous observation, concerning the application of *Articles 2 and 4 of the Convention*, the Committee recalled that section 108, subsection 2, of the Labour Code provides that a collective agreement or individual employment contract may provide for a qualifying period of between one year and 30 months of actual service for entitlement to holiday. The Committee pointed out that this provision is not consistent with the Convention, which specifies that any agreement – collective or individual – to relinquish the right to an annual holiday with pay of at least six working days after one year of continuous service is void. In its latest report, the Government indicates that the draft new Labour Code repeals section 108 and has been submitted to the National Assembly for approval during its

> session ending 31 December 1994. The Committee hopes that the new Labour Code will be enacted in order to give full effect to the provisions of the Convention and that the Government will supply a copy of the final text.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Cuba (ratification: 1953)

In earlier comments, the Committee noted that section 98 of the Labour Code of 1984 expressly permits the State Labour and Social Security Committee to authorize the replacement of holidays by supplementary remuneration with the worker's agreement for reasons of production of goods or supply of services in a number of branches, activities or workplaces. The Committee pointed out that such replacement of holiday leave by cash remuneration contravenes *Article 4 of the Convention*, which prohibits any agreement to relinquish the right to an annual holiday. The Committee notes from the Government's reply that section 95 of the Labour Code, which provides that an employer shall ensure not less than seven days' paid leave during the working year, if it postpones a worker's holiday, is also applicable in case of exceptional measures in accordance with section 98. It further notes that for several years the authority vested in the State Labour and Social Security Committee under section 98 has not been exercised in practice. It notes that research is under way in order to amend the Labour Code of 1984 in the area of working time and rest, taking into account the observations of the Committee, to bring it into conformity with the real situation of the country. It hopes that the Government continues to undertake all efforts to amend the Labour Code in the near future and asks the Government to convey the new text to the Office when adopted.

Morocco (ratification: 1956)

Article 2, paragraph 1, of the Convention. In its previous comments, the Committee noted that section 218 of the draft Labour Code provides that the accumulation or division into parts of annual holiday cannot have the effect of reducing the annual holiday taken to less than 12 working days falling between two weekly rest days. The Committee also noted the Government's indication that the draft had been approved by the Council of Ministers and that the discussion of the draft in Parliament began in May 1992. The Committee notes from the Government's report for the period ending 30 June 2000 that the draft Labour Code has been submitted to Parliament for adoption and is still under consideration after being examined and redrafted. It hopes that the new Labour Code will soon be enacted in order to give full effect to the provisions of the Convention. It requests the Government to report further on any progress achieved and to supply a copy of the final text when adopted.

Myanmar (ratification: 1954)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

> The Committee has noted the Government's latest report on application of the Convention. In it the Government indicates that draft texts revising the 1951 Acts on factories, shops and undertakings and on holidays and public holidays are still under consideration by the legislative supervisory body. With reference to its previous comments,

the Committee recalls that these texts must ensure the application of the Convention to all the undertakings set forth in *Article 1 of the Convention*, particularly small establishments, shops and offices as well as building and public works and road transport undertakings. They should also ensure application of the provisions of the Convention on the two points below which have been the subject of comments by the Committee for many years.

Article 2, paragraph 2. Every person under 16 years of age should be entitled to an annual holiday with pay of at least 12 working days after one year of continuous service, whereas under section 4(1) of the Leave and Holidays Act workers between 15 and 16 years are allowed only ten days.

Article 4. Any agreement to forego or relinquish the right to the minimum annual holiday with pay laid down in the Convention (six working days, or, in the case of persons under 16 years of age, 12 working days) must be void, whereas section 4(3) of the same Act allows agreements permitting the accumulation of earned leave.

The Committee trusts that the revised texts will be adopted very shortly and that the Government will thus be able to give an account in its next report of progress made in application of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

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In addition, requests regarding certain points are being addressed directly to the following States: *Cuba, Kyrgyzstan, Tajikistan.*

Convention No. 53: Officers' Competency Certificates, 1936

Denmark (ratification: 1938)

The Committee notes the Government's report.

Article 3 of the Convention. Section 16, paragraph 2, of the Law on the Manning of Ships No. 239 of 1985 and section 12 of Act No. 15 of 1997 on Manning of Ships permit a person not holding the certificate required for service as officer in charge of the watch under special circumstances to carry out this function for a single voyage or for a specific period not exceeding six months. The Committee recalls that the exceptional clause in *Article 3, paragraph 2,* permits a person not holding the certificate required for service in a particular position to servé in the position concerned only in cases of *force majeure*. It, therefore, asks the Government to take the necessary steps to give full effect to this Article of the Convention and to provide full information on the exact number of applications for exceptions.

France (ratification: 1947)

The Committee notes the adoption of Decree No. 99-439 of 25 May 1999 on the issue of seafarers' occupational training certificates and conditions for the performance of duties on board trading and fishing vessels as well as pleasure vessels equipped with a muster roll, thus repealing, as from 1 February 2002, Decree No. 85-379 of 27 March 1985, amended, as well as certain provisions of the Decree of 20 November 1991, amended, on the issue of seafarers' occupational training certificates.

Article 3, paragraph 2, of the Convention. The Committee notes that under section 5 of the Decree of 25 May 1999 it is possible to make an exception, in cases of *force majeure*, and only for a period as short as possible, to qualification requirements stipulated by the Decree in regard to the functions of master or chief engineer, it being understood that in such cases these duties may be performed only by a person possessing the certificate required to perform the duties immediately below. The Committee notes, however, that in regard to the other duties falling within the scope of the Convention such as navigating officer in charge of a watch and engineer officer in charge of a watch, these derogations are possible in cases of extreme need, for a time not exceeding six months and for a given vessel. It recalls that the Convention allows exceptions to this Article in regard to all the duties mentioned therein only in cases of *force majeure* and hopes that the Government will take all the necessary measures to bring its regulations into conformity with the provisions of the Convention on this point.

The Committee also requests the Government to indicate, in accordance with article 23, paragraph 2, of the ILO Constitution, the representative organizations of shipowners and seamen to which the latest report has been communicated and whether any observations have been received from these organizations concerning the application in practice of the provisions of the Convention or the application of legislative or other measures giving effect to the provisions of the Convention.

Ireland (ratification: 1985)

The Committee notes the Government's report.

Article 3 of the Convention. It notes that section 18 and section 20, paragraph 2(b), of the Merchant Shipping (Certification of Deck Officers) Regulations of 1988 permit a ship to go to sea without a duly certificated master or second-in-command for reasons of illness or incapacity of the person concerned, or other unforeseen circumstances. The Committee points out that these provisions do not comply with *Article 3, paragraph 2,* of the Convention which permits exceptions only in cases of *force majeure*. It asks the Government to take all necessary steps to ensure full compliance with the provisions of *Article 3* of the Convention and requests information on the number of exceptions granted under section 18 and section 20, paragraph 2b, of the Merchant Shipping (Certification of Deck Officers) Regulations of 1988.

Norway (ratification: 1937)

Article 3, paragraph 2. Section 34 of the Regulations No. 398 of 1998 prescribe that under certain circumstances the Maritime Directorate may give a dispensation which allows a person to provide services on a particular vessel for six months without holding the required certificate of competency. Only the master and chief engineer are excluded from this regulation. The Committee points out that exceptions to these provisions of the Convention can only be made in cases of *force majeure*. It hopes that the Government will take all necessary steps to bring its national legislation in conformity with the Convention.

Panama (ratification: 1970)

The Committee notes the Government's report. It notes that under section 8.1 of the Regulations concerning training and certification of seafarers in fulfilment of the requirements prescribed by the International Convention on Standards, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995 (STCW 78/95), approved by Resolution No. 009-2001 of 12 February 2001 of the Directive Body of the Maritime Authority of Panama, in very exceptional circumstances the Directorate General of Seafarers, if, in its judgement, this does not involve danger for persons, goods or the environment, can grant a dispensation to the person to serve in a specified vessel in a position for which such person does not possess an appropriate certificate. It further notes that under section 8.2.4 of the Regulations on the dispensations for the posts of master or chief engineer, the dispensation could be granted only in cases of *force majeure* and for the shortest possible period.

It appears to the Committee that under section 8.1 of the Regulations a dispensation may be granted to a navigating officer in charge of a watch and an engineer officer in charge of a watch in exceptional cases which are not limited to cases of *force majeure* as provided in *Article 3, paragraph 2*. The Committee requests the Government to provide information on the practical application of this provision as well as on any measures adopted or envisaged to bring the national legislation into conformity with the Convention so that dispensations to a navigating officer in charge of a watch and an engineer officer in charge of a watch could be granted only in cases of *force majeure*.

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In addition, requests regarding certain points are being addressed directly to the following States: *Brazil, Bulgaria, Croatia, Italy, Liberia, Libyan Arab Jamahiriya, Philippines, Slovenia*.

Information supplied by *Estonia* in answer to a direct request has been noted by the Committee.

Convention No. 55: Shipowners' Liability (Sick and Injured Seamen), 1936

Egypt (ratification: 1982)

For many years the Committee has pointed out that section 2(b) of the Social Insurance Act (No. 79, 1975) – one of the pieces of legislation ensuring implementation of the Convention – subjects equal treatment for foreign workers to two requirements, namely the holding of a contract of at least one year and the conclusion of a reciprocity agreement, which is contrary to the provisions of *Article 11 of the Convention*. In its last report, the Government states that the Ministry of Social Insurance, which is currently revising the Social Insurance Act, will take due account of the Committee's comments on the abovementioned section of the Act. The Committee takes due note of this information. It trusts that the amendments envisaged will take effect very shortly and will ensure, in law and in practice, that the provisions of the Convention are applied to foreign seafarers whatever the length of their contract and whether or not a reciprocity agreement has been concluded. The Committee would be grateful if the Government would provide a text of the amended law as soon as the amendments are effected.

Liberia (ratification: 1960)

The Committee notes with regret that for the fourth consecutive year the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 1, paragraph 2, of the Convention.* In reply to the Committee's previous comments, the Government refers to the provisions of section 51 of the Maritime Law concerning vessels which can be registered under Liberian law. In this regard, the Committee wishes to draw the Government's attention to the fact that its comments concerned section 290-2 of the law, which provides that persons employed on vessels of less than 75 net tons are not covered by the provisions of Chapter 10 of the law relating specifically to the obligations of the shipowner in the event of seafarers' sickness or accident.
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> *Article 2, paragraph 1.* The Committee noted that section 336-1 of the Maritime Law provides for payment of the wages, maintenance and medical care of the seaman in cases of sickness or accident while he is off the vessel provided that he is "off the vessel pursuant to an actual mission assigned to him by, or by the authority of, the master". The Committee recalls that under this provision of the Convention the shipowner is liable in all cases of sickness and injury occurring between the date specified in the articles of agreement for reporting for duty and the termination of the engagement.
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> *Article 6, paragraph 2.* The Committee noted that, contrary to this provision of the Convention, the approval of the competent authority is not required when a sick or injured seaman has to be repatriated to a port other than the port at which he was engaged, or the port at which the journey commenced, or a port in his own country or the country to which he belongs. Under section 342-1(b) of the Maritime Law, agreement between the seafarer and the master or shipowner suffices. The Government states that if there is agreement between the parties, administrative authorization is not necessary but that, in the event of disagreement, the parties may submit the matter to the Commissioner of Maritime Affairs by virtue of section 359 of the law. The Committee notes this information. It wishes to draw the Government's attention to the need to include provisions in its legislation making it compulsory to seek the approval of the competent authority when the parties agree to a port of repatriation other than those laid down in *Article 6, paragraph 2(a), (b) or (c)*, of the Convention. In fact, the provisions of this Article of the Convention are designed to protect a sick or injured seafarer by preventing the master or the shipowner imposing on him a port of repatriation other than the port at which he was engaged, the home port of the vessel or a port in his own country or the country to which he belongs, without the approval of the competent authority; in the event of disagreement between the parties, an appeal to a conciliation authority is not sufficient in itself.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Panama (ratification: 1971)

Article 1 of the Convention. In its previous comments, the Committee noted that the Legislative Decree of 1998 on work at sea and on navigable waterways, under the terms of section 1(b), does not apply to the provision of services which, due to the nature of the operations of the vessel, do not require the permanent presence of the worker on board, so that the worker is not required to be regularly and habitually away from his residence for a long period and does not have a different workplace which is far from his residence. In this respect, the Government indicates that the concept of a long period is not clear and can give rise to various interpretations. The Maritime Authority of Panama requested an opinion from the Office of the Attorney of the administration on this subject, which will determine whether or not it is necessary to amend section 1(b) of the above Legislative Decree of 1998. The Committee notes this information and requests the Government to indicate any development in this respect. It would also be grateful if the Government would indicate the workers who, in practice, may be concerned by this exclusion.

Article 2. (a) In its previous comments, while noting that under the terms of section 84 of the Legislative Decree of 1998 on work at sea and on navigable waterways, the shipowner is under an obligation to cover the risks of sickness, resulting from any disease, occurring between the date specified in the articles of agreement for the commencement of service and the date of termination of the engagement, the Committee had noted that this section is contained in Title II, Chapter 7, which covers "occupational risks in the event of sickness". The Committee considered that it was desirable, in order to avoid any ambiguity, to amend the heading of Title II to refer in a general manner to "risks of sickness". In reply, the Government states that such an amendment would imply the various situations to which seafarers may be exposed. In these conditions, the Committee would be grateful if the Government would indicate in its next report whether the obligations of the shipowner deriving from Title II of Chapter 7 apply both to sickness arising out of an occupational risk and to sickness of common origin.

(b) The Committee also noted that the Legislative Decree on work at sea and on navigable waterways does not contain a provision governing the obligations of the shipowner in the event of employment injuries, except for sections 80 to 83, which define employment injury and entrust the maritime authority with the approval of a schedule for the minimum compensation for such injury. In its last report, the Government states that the Maritime Authority has established a committee of experts (jurists and medical experts) to prepare a schedule of the minimum compensation for occupational diseases and employment injuries to which seafarers employed on vessels flying the Panamanian flag are exposed. This draft text is already at an advanced stage and, once completed, will be submitted to the Governing Board of the Maritime Authority. With regard to the liability of the shipowner in the event of occupational accidents to seafarers, the Government indicates that the shipowner is bound to provide medical assistance until the injured seafarer is cured or until the permanent nature of the sickness or incapacity is determined. This assistance includes medical care, the provision of medicines and other high-quality therapeutic care of sufficient quantity. Furthermore, the shipowner has to guarantee the seafarer the payment of compensation in the event of incapacity for work as a result of an occupational injury. The Committee notes this information with interest and would be grateful if the Government would indicate the provisions of the national legislation setting out this liability of employers in the event of employment accidents affecting seafarers.

Article 5, paragraph 1. Under the terms of section 89 of the Legislative Decree on work at sea and on navigable waterways, the shipowner is under an obligation to pay, in the event of sickness affecting the seafarer giving rise to incapacity for work, the full amount of wages while the seafarer is on board or on shore until the recovery of the seafarer or until the determination of the permanent nature of the incapacity or until the termination of the engagement. The Committee had drawn the Government's attention to the fact that this latter limitation is not provided by *Article 5, paragraph 1*, of the

Convention. It notes that the Government does not provide any information in this respect in its last report.

Article 5, paragraph 2. The Committee had also noted that, although section 89(2) of the above Legislative Decree limits the obligation of the shipowner to pay the wages of a seafarer who is landed in the event of sickness which results in incapacity for work to a period of 12 months from the beginning of the sickness, this period is reduced to 30 days for vessels engaged in the international transport of passengers. However, under *Article 5, paragraph 2,* of the Convention, the limitation of the liability of the shipowner to pay wages in whole or in part in respect of a person no longer on board may only be limited to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness. In this respect, the Government indicates in its report that the Maritime Authority is examining the provisions of the above Legislative Decree, which will have to be amended, and that it will take the appropriate measures in this respect to bring the national legislation into conformity with the Convention.

The Committee notes this information. It hopes that the measures announced by the Government will be adopted in the very near future and that they will make it possible to give full effect to *Article 5* of the Convention. The Committee trusts that in this respect the Government will also take into account the comments made above in regard to *Article 5, paragraph 1.*

Article 7, paragraph 1. In its previous comments, the Committee requested the Government to indicate the provisions under which, in accordance with this provision of the Convention, the shipowner defrays the burial expenses in the case of death occurring on board, irrespective of the cause, or in the case of death on shore as a result of an employment injury. In reply, the Government refers to section 35 of the Legislative Decree on work at sea and on navigable waterways. The Committee notes that this section only enumerates the subjects on which the articles of engagement must contain information, without indicating the nature of the liability of the shipowner in respect of these various matters. In view of the fact that section 90 of the above Legislative Decree only refers to the liability of the shipowner to defray burial expenses in the case of the death of the seafarer occurring on shore when, at the time of death, the seafarer was receiving assistance provided by the shipowner by reason of sickness, the Committee once again requests the Government to indicate the provisions under which effect is given to this provision of the Convention, firstly where the seafarer dies on board and, secondly, where the death of the seafarer occurs on shore as a result of an employment injury.

Article 9. With reference to its previous comments, the Committee notes the information provided by the Government to the effect that the two maritime labour tribunals envisaged in Chapter XI of the Legislative Decree on work at sea and on navigable waterways have not yet been established. It would be grateful if the Government would provide information on any developments in this respect. While awaiting the establishment of these tribunals, the Committee requests the Government to provide information on the application in practice of this provision of the Convention, under which provision is required to be made for the rapid and inexpensive settlement of disputes concerning the liability of the shipowner. It would also be grateful if the Government would indicate the rules applicable for the resolution of disputes where neither the shipowner nor the seafarer is resident in Panama and if it would indicate the measures taken to ensure compliance with any court ruling or arbitration award relating to disputes occurring abroad.

The Committee notes that the Government is not in a position to provide the statistical data envisaged in *Part V of the report form*, since the Maritime Authority does not have such data available to it. It hopes that in future reports the Government will be able to provide information on the application of the Convention in practice, as well as statistical data.

Peru (ratification: 1962)

The Committee notes the additional information provided by the Government concerning the comments made in May 1999 and January and March 2000 by the Trade Union of Fishing Boat Owner-Masters of Puerto Supe and Associates concerning the operational difficulties of the system of supplementary occupational risk insurance (SCTR) established by the Social Security Modernization Act No. 26790 in the area of health, which had been noted by the Committee in its observation in 2000.

With regard to the application in practice of the SCTR, and particularly the alleged cases of *failure to pay the benefit for temporary incapacity and the survivors' pension and funeral expenses*, the Government once again provides information on the legal provisions which set out these benefits. With regard to the provision of the benefit for temporary incapacity, the Government indicates that the payment of this benefit to fishermen is envisaged in section 35 of Supreme Decree No. 03-98-SA, approving the Technical Standards for Supplementary Occupational Risk Insurance. In this respect, the Government indicates that the provision of the benefit for temporary incapacity is the responsibility of the Fishermen's Social Benefits and Social Security Fund (CBSSP), and not of the employer. The Government also supplies a report on enterprises affiliated to the SCTR submitted by the Insurance Standardization Office (ONP). On the subject of the survivors' pension and funeral expenses, it indicates that provision of the pension for total permanent invalidity and the survivors' pension can be required of the ONP, provided that the employer is included in the register of enterprises carrying out the activities envisaged in Annex 5 to the Regulations issued under Act No. 26790. In this connection, sanctions are envisaged in the event of failure by the employer to register, in which event workers can take legal action under section 88 of the Regulations issued under Act No. 26790.

The Committee notes this information. It hopes that the Government will take adequate measures to prevent seafarers who are victims of accidents or who contract a disease being left without protection and will strengthen its inspection system for this purpose to ensure that employers comply with the obligation to include their workers in the register of enterprises carrying out high-risk activities and take out the SCTR for this purpose. In this regard, the Committee recalls that, under the terms of *Article 4, paragraph 3, and Article 5, paragraph 3, of the Convention*, a shipowner may cease to be liable for the expense of medical care and for the payment of wages in whole or in part due to the seafarer in the event of injury which results in incapacity for work *provided that* the injured seafarer is entitled to benefits under a compulsory sickness insurance scheme, a compulsory accident insurance scheme or a scheme of workmen's compensation for accidents that is in force for seafarers in the territory in which the vessel is registered. The Committee would therefore be grateful if the Government would provide information in its next report on the application in practice of the supplementary occupational risks insurance scheme (SCTR) as it relates to seafarers. It also requests the Government to provide information (statistics, reports of inspection bodies and, if any, administrative sanctions imposed on shipowners, etc.) concerning the measures which have been taken or are envisaged to ensure that in practice, on the one hand, shipowners subscribe to this insurance scheme and, on the other hand, where they do not subscribe to this scheme, seafarers benefit as a minimum from the benefits guaranteed by this Convention in the event of sickness or injury. The Committee also requests the Government to indicate whether the fishing enterprises CHAPSA and ATLANTIDA, which are referred to by the Trade Union of Fishing Boat Owner-Masters of Puerto Supe, have also subscribed to the supplementary occupational risks insurance scheme and, if they have not, to provide information on the cases mentioned by the trade union.

[The Government is asked to report in detail in 2002.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Luxembourg, Mexico.*

Convention No. 56: Sickness Insurance (Sea), 1936

Panama (ratification: 1971)

1. In its previous comments, the Committee had drawn the Government's attention to the fact that resolution No. 1348-83 J.D. of 1983, by excluding from the social security scheme any foreign seaman married to a non-Panamanian woman or having children whose mother was non-Panamanian, was contrary to the provisions of *Article 1 of the Convention*. In reply, the Government indicates that the Technical Board of the Social Security Fund had approved a draft amendment to this resolution. This draft aims to rectify the discrimination which had been unintentionally incorporated into the resolution and which is one of the subjects to be debated within the Management Committee of the Social Security Fund for approval. The Committee notes this information. It notes that the situation has not changed inasmuch as the Government communicated with its previous report a copy of the said draft. In addition, the Committee points out that, in 1996, the Government indicated that the Social Security Fund authorities were going to take the necessary measures to solve this problem. Hence the Committee hopes that the Government will not fail to adopt all necessary measures to ensure that this draft is adopted without any delay, so that all foreign workers and in particular any foreign worker married to a non-Panamanian woman as well as his dependants, residing in the Republic of Panama and employed on a vessel under the Panamanian flag assigned to international service will be covered by the compulsory social security scheme.

2. The Committee had also drawn the Government's attention to the fact that entitlement to social security benefits, and in particular sickness benefits, was conditional on the payment of contributions by the employer, whereas the benefits provided for by the Convention may be withheld only in the circumstances described in *Article 2, paragraph 4, and Article 3, paragraph 3,* which make no reference to the

possibility of non-payment of contributions by the employer. In its report, the Government indicates that the financing of the social security system depends on the payment of social contributions. The fact that the Fund is not responsible for benefits due to the insured person when the employer has failed in his obligation to pay contributions constitutes a measure for safeguarding the financial equilibrium of social security programmes, in particular the health and maternity programme, which is based on a simple distribution of income and expenditure without the accumulation of any reserves. While noting the Government's concerns on the financial equilibrium of the social security system, the Committee considers that insured persons must not be penalized by employers' failure to pay their contributions. It recalls in this regard that medical care must be provided and sickness benefits paid to all persons covered by the Convention, and although the Convention allows benefits to be withheld under certain conditions, the latter do not include the non-payment of contributions by the employer. Consequently, the Committee hopes that the Government will reconsider this issue and carry out all the necessary amendments. It hopes that its next report will contain information on the progress made in this regard.

Peru (ratification: 1962)

The Committee notes the additional information supplied by the Government concerning the comments transmitted by the Trade Union of Fishing Boat Owner-Masters of Puerto Supe in May 1999 and January and March 2000 concerning the operational difficulties of the system of supplementary occupational risks insurance (SCTR) envisaged under the Social Security Modernization Act No. 26790 in the area of health. The Committee refers in this respect to its observation under Convention No. 55.

The Committee notes the information provided by the Government in its report.

Article 1 of the Convention (scope of application). The Committee notes that seafarers are covered by Act No. 26790, and the pertinent regulations. In accordance with section 3 of the above Act, and of section 4(b) of Act No. 27056 establishing the Social Security Health System (ESSALUD), persons considered to be seafarers are regularly insured. Furthermore, under Act No. 27177 of 25 September 1999, fishermen are included in ESSALUD. The Committee requests the Government to provide statistical information on the number of persons considered to be seafarers, and on the number of persons in this sector covered and affiliated to ESSALUD.

Article 4 (payment to the family of the seafarer of sickness benefit to which he would have been entitled had he not been abroad). In addition to the legislative provisions respecting the subsidy for temporary incapacity, the Government indicates that in the event that the insured person is abroad and would have been entitled to cash benefit in respect of sickness, Peruvian legislation provides for the possibility of family members or other persons to receive the benefit when duly accredited to do so. The Committee notes this information. It recalls that the cash benefit envisaged by this provision of the Convention has to be provided without any restriction to the family of the insured person. It requests the Government to indicate the provisions of the legislation to which it is referring. It also requests the Government to provide information on the cash benefits paid to the families of insured persons.

Article 6 (funeral benefit). The Committee notes that section 18 of Supreme Decree No. 009-97-SA establishes that the funeral benefit covers the funeral services for the death of a regular insured person, whether active or retired.

Article 7 (continuation of the right to insurance benefit after the termination of the engagement). The Committee notes that, under section 37 of Supreme Decree No. 009-97-SA, as amended by Supreme Decree No. 004-2000-TR, in the event of unemployment or the full suspension of activity resulting in the loss of entitlement to coverage, regular insured persons with a minimum of five months of contributions, whether or not they are consecutive, during the three years prior to the cessation or full suspension of activity, are entitled to the medical benefits envisaged in sections 11 and 12 of the above Decree to the level of two months of coverage for every five months of contributions. The Committee requests the Government to indicate whether the period of coverage covers the normal interval between successive engagements.

[The Government is asked to report in detail in 2002.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Croatia, Luxembourg, Slovenia.*

Convention No. 58: Minimum Age (Sea) (Revised), 1936

A request regarding certain points is being addressed directly to the *United Republic of Tanzania* (Zanzibar).

Convention No. 59: Minimum Age (Industry) (Revised), 1937

Sierra Leone (ratification: 1961)

The Committee notes with regret that for the third consecutive year the Government's report has not been received. It must therefore repeat its previous observation:

> In its previous comments, the Committee noted the draft Employment Act prepared with the ILO's assistance which prescribes the age of 16 years for admission to employments likely to jeopardize the life, health or morals of young persons, so as to give effect to *Article 5 of the Convention*. The draft Act also provides that "the employer shall keep a register of all children under the age of 18 years employed by him and of the dates of their birth", in accordance with *Article 4* of the Convention. The Committee noted that the draft Act had not yet been enacted. Therefore, it expresses the hope again that the new Act will be adopted in the very near future in order to ensure complete conformity of the national legislation with the Convention on these points and that the Government will soon be able to communicate the text of the new Employment Act.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 60: Minimum Age (Non-Industrial Employment) (Revised), 1937

Paraguay (ratification: 1966)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee noted Act No. 496 of 22 August 1995 which amends, widens and repeals sections of Act No. 213/93 of the Labour Code.
>
> The Committee further noted the information contained in the initial report which the Government presented to the 167th and 168th sessions of the Committee on the Rights of the Child (CRC/C/3/Add.22) and in the additional report which the Government presented before the 385th session of the Committee (CRC/C/3/Add.47). In these reports, the Government states that in 1991, the Directorate General for the Protection of Juveniles, under the aegis of the Ministry of Justice and of Labour initiated the reform of the Minors' Code in force, and that since that time three preliminary drafts had been drawn up under the Directorate General for the Protection of Juveniles, Defence for Children International and the Juvenile Protection Centre. However, lack of consensus has meant that these preliminary drafts have not been included in the legislation. The Government also stated that a new draft was prepared and was submitted to the National Congress in December 1995. The Committee requests the Government to provide information on the progress made in the adoption of the above draft and to send a copy of the new Minors' Code when adopted.
>
> *Article 2 of the Convention.* In its earlier comments the Committee had referred to section 119 of the Labour Code. The Committee noted the information sent by the Government to the effect that Act No. 213/93 was amended by Act No. 496/95. The new section 119 specifies that the minimum age of 15 years applies to public or private industrial undertakings. The Committee observed that there is no provision either in the new Labour Code or in the Minors' Code, which fixes the minimum age for work in non-industrial undertakings, with the exception of section 6 of the Minors' Code which forbids work outside the home by children of less than 12 years. Consequently, the Committee again requests the Government to indicate the manner in which effect is given to in *Article 2* of the Convention, which provides for a general prohibition to employing children under 15 years of age in non-industrial undertakings.
>
> *Article 3.* In its earlier comments, the Committee had referred to section 120 of the Labour Code. The Committee noted that this article had been amended by Act No. 496/95. It regretted to note that the new section 120 reduces the minimum age for the employment of children in undertakings where those employed are "preferably members of the family of the employer", to 12 years. The Committee recalls that in its previous version, section 120 permitted the employment of children between 14 and 18 years old in non-industrial undertakings under certain conditions, which were in line with the provisions of this Article of the Convention. The Committee had also noted that: (i) section 6 of the Minors' Code, fixing the minimum age of 12 years for work outside the child's home, permits exceptions for such activities that would not endanger his or her physical health or morals, and which would not interfere with his or her education; and (ii) under section 186 of the Minors' Code, the minors' judge can authorize the work of minors over 12 years when it is indispensable for the maintenance of themselves or their parents and when it is compatible with their development. The Committee again recalls that *Article 3, paragraph 1,* of the Convention allows exceptions to the minimum age of 15 years, provided for in *Article 2* of the Convention, only from the age of 13 years and only as regards light work. In consequence, the Committee, in noting a regrettable retrogression in the adoption of the new

> section 120 of the Labour Code, urges the Government to take the measures necessary to give effect to the Convention in this respect.
>
> The Committee noted that section 123 of the Labour Code had been amended by Act No. 496/95. The Committee regretted to note that the new provision stipulates that children between 12 and 15 years of age are prohibited from working more than "four hours a day" and 24 hours a week. The Committee recalls that *Article 3, paragraph 2(a)*, provides that children less than 14 years of age may not be employed, on light work, more than "two hours per day", whether that day be a school day or a holiday. The Committee therefore urges the Government to adopt the measures necessary to give effect to the Convention in this respect.
>
> The Committee also noted that section 122 of the Labour Code had been amended by Act No. 496/95. The new provision stipulates that children aged between 15 to 18 years may not be employed during the night for the interval of "ten hours" from 8 p.m. to 6 a.m. The Committee recalls that under *Article 3, paragraph 5(b)*, this interval may not be less than "12 hours" for children of over 14 years. The Committee recalls that the earlier provision was in conformity with *Article 3*, and consequently, that the new drafting of section 122 of the Labour Code is retrogressive. The Committee therefore urges the Government to adopt the measures necessary to give effect to this provision of the Convention.
>
> The Committee is referring to other questions in a direct request.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, a request regarding certain points is being addressed directly to *Paraguay*.

Convention No. 62: Safety Provisions (Building), 1937

Algeria (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the Government's report and the reply to its previous comments. It also notes the information on the adoption of and the texts of Order No. 96-11 of 10 June 1996 amending and supplementing Law No. 90-03 of 6 February 1990 on Labour Inspection, as well as Executive Decree No. 96-209 of 5 June 1996 providing for the composition and functioning of the national occupational safety and health council.
>
> 1. With respect to the comments it has been making for a number of years, the Committee notes the information that due to priority being given to the enactment of basic laws as a result of the reforms introduced in the country, the draft regulations intended to give effect to the provisions of the Convention have been delayed. It further notes the statement that special attention was given by the public authorities to all matters touching on the maintenance of safety and health of workers, in particular in high-risk sectors of economic activity such as building and public works. The Government cites the establishment of the national occupational safety and health council as proof of this governmental interest, and states that it will not fail to communicate to the Office the promulgated texts of the regulations, which it indicates should not be further delayed.
>
> The Committee recalls the long period that has elapsed for the adoption of special regulations concerning safety in the building industry, as required by the Convention. Given the acknowledged high-risk nature of work in the building industry, the Committee trusts the

> Government will take the necessary measures to ensure that the long-awaited regulations will come into force in the very near future and that a copy will be supplied to the Office.
>
> 2. *Article 6 of the Convention.* Further to its previous comments, the Committee notes that the partial statistics of occupational accidents in the building and public works sector of the central region of the country for the year 1994, indicated in the Government's report as enclosed, have not reached the Office. The Committee hopes that the said statistics for 1994, as well as more recent statistics covering the building industry in the whole country, will be provided by the Government, as required by this Article of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Burundi (ratification: 1963)

The Committee notes the information supplied by the Government in its report.

Article 4 of the Convention. The Committee notes the Government's statement that, in practice, labour inspectors carry out few visits in the construction sector because they lack the necessary technical competence, training being needed in masonry, electricity, plumbing and carpentry. The Committee asks the Government to take the necessary steps to ensure that training for labour inspectors is adapted to supervision of safety prescriptions in the construction sector.

Article 6 and Part V of the report form. The Committee recalls that it had taken note of the statistical information sent by the Government with its report in 1991. It notes that since then, the Government's reports contain no statistical information as required by *Article* 6 of the Convention and the corresponding report form. The Committee further recalls that under the abovementioned Article, Members ratifying the Convention undertake to supply with their reports the most up-to-date statistics available on the number and classification of accidents occurring to persons occupied on work within the scope of the Convention and that, according to the report form on this Convention, governments are asked to supply in addition as many details as possible regarding the number of persons occupied in the construction industry and covered by the statistics.

In the absence of the abovementioned statistics, the Committee is unable to assess the manner in which the safety provisions established by the Convention are applied in practice, which is the more regrettable as construction is among the sectors with the highest accident risks. The Committee therefore asks the Government not to fail to provide all the statistical information required by the abovementioned Article of the Convention in its next report.

Articles 7 to 15. The Committee notes the provisions of Rwanda-Urundi (ORU) Ordinance, No. 222/167 of 20 March 1958, issuing general provisions on safety in the workplace. It notes in particular the provisions of section 16 on stairways, ladders, gangways, platforms, etc.

The Committee notes that the texts cited by the Government as applying the provisions of the Convention apply it only in part. The Committee notes that the Government no longer refers in its report to the ORU, No. 21/94 of 24 July 1953, establishing the legal framework for occupational safety in the construction industry, as amended by ORU No. 23/148 of 11 October 1955, several provisions of which apply those of the Convention. It further notes that the provisions of the Act of 29 June 1962 stipulate that: "in so far as they are not contrary to the Constitution of Burundi, regulatory provisions issued by a competent authority shall remain in force until they are expressly repealed or superseded in their entirety by an order (decree or ordinance) issued by the competent body of the Executive of Burundi", and section 306 of the Labour Code of 7 July 1993 providing that "earlier provisions which are not contrary to the present Code shall remain in force until the date of their express revocation". The Committee asks the Government to indicate the texts currently in force and those which have been expressly repealed or superseded in their entirety, and to supply the Office with the texts amending the national legislation so that the Committee can ascertain whether the latter gives effect to the provisions of the Convention.

In view of the express reference made by the Government in its report to Ordinance No. 222/167 and the technical and social changes that have occurred since its adoption, the Committee asks the Government to provide detailed information, article by article, on the application of *Articles 7 to 10* of the Convention concerning scaffolding and *Articles 11 to 15* of the Convention concerning hoisting equipment.

Central African Republic (ratification: 1964)

The Committee notes with regret that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

> The Committee notes the information supplied by the Government in its report. It notes in particular the information that the Government has taken due note of the comments of the Committee and that the necessary measures will be taken within the overall revision of the legislative and regulatory texts on labour envisaged by the Department of Labour and that the technical assistance of the ILO's multidisciplinary advisory team for Central Africa will be requested. The Committee trusts this overall revision will be accomplished soon and that the Government will not fail to address the Committee's previous comments as set out below.
>
> *Introduction into national legislation of the standards set forth in ratified Conventions*
>
> In its previous comments, the Committee drew the Government's attention to the need to adopt measures in laws and regulations to give effect to the provisions contained in the Convention even if, as stated by the Government, under the Constitution of 4 January 1995, international agreements, treaties and Conventions that are duly ratified by the Republic have the force of national law.
>
> The Committee recalls that the incorporation into national legislation of the provisions of ratified Conventions, from the mere fact of their ratification, is not sufficient to give effect to them at the national level in all cases in which the provisions are not *self-executing*, that is where they require special measures for their application, which is the case, at least, for *Part I of the Convention*. Furthermore, special measures are also needed to establish penalties for non-observance of the standards set forth in the instrument, which is the case of *Article 3(c)* of the Convention.
>
> The Committee once again draws the Government's attention to *Article 1, paragraph 1*, of the Convention, in accordance with which each Member which ratifies the Convention undertakes to maintain in force, laws or regulations which ensure the application of the General Rules set forth in *Parts II to IV* of the Convention. In this respect, the Committee recalls that draft texts were prepared following the direct contacts which took place in 1978

and 1980 with the responsible government services. The Committee is bound to express the firm hope that the relevant texts will be adopted in the very near future.

Statistics of accidents (Article 6 of the Convention)

For a number of years, the Committee has been noting the absence, in the Government's reports, of statistical information relating to the number and classification of accidents occurring in the building sector. In its last report, the Government states that the Labour Department does not currently have at its disposal reliable statistics in this field.

The Committee recalls that, under this Article of the Convention, each Member which ratifies the Convention undertakes to communicate the latest statistical information indicating the number and classification of accidents in an enterprise or sector. The Committee once again hopes that the Government will soon be in a position to indicate the measures which have been taken to give effect to the Convention on this point and to supply the appropriate statistical information.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Belgium, Bulgaria, Democratic Republic of the Congo, France, Greece, Guinea, Mauritania, Netherlands, Poland, Rwanda, Spain, Suriname, Switzerland, Tunisia.*

Information supplied by *Peru* in answer to a direct request has been noted by the Committee.

Convention No. 63: Statistics of Wages and Hours of Work, 1938

Requests regarding certain points are being addressed directly to the following States: *New Zealand, United Republic of Tanzania.*

Convention No. 68: Food and Catering (Ships' Crews), 1946

Argentina (ratification: 1956)

Article 5 of the Convention. The Committee recalls that under this provision the ratifying State shall maintain in force laws or regulations concerning food supply and catering arrangements designed to secure the health and well-being of the crews of seagoing vessels, whether publicly or privately owned, which are engaged in the transport of cargo or passengers for the purpose of trade and which are registered in its territory. For a number of years the Committee is asking the Government to provide information concerning the application of this Article. It notes that the latest report of the Government refers to the collective labour agreements which, however, were suspended by Decree No. 817/92 and its supplements.

The Committee wishes to draw the Government's attention to the fact that effect to *Article 5* shall be given by laws or regulations and cannot be given exclusively by collective agreements. Referring also to its previous comments concerning the application of *Articles 6, 9(3), 10 and 12* of the Convention, the Committee asks the Government to take all necessary measures in order to bring national legislation into conformity with the Convention, and to keep it informed on any progress made in this respect. Please also provide the text of the Regulations on Navigation at Sea and on Inland Waterways (REGINAVE), as amended.

Panama (ratification: 1971)

Articles 2(a), 5, paragraph 2(a), and 6 of the Convention. In its previous comments the Committee expressed the hope that the Government will adopt the necessary measures to give effect to these provisions of the Convention. The Committee notes the Government's indication that the regulations concerning the inspection of the living conditions of seafarers which would give effect to these provisions are still in the process of adoption. The Committee once again hopes that the Government will take all necessary measures to give full effect to these provisions of the Convention in the very near future and that it will provide information on any progress achieved in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Egypt, Guinea-Bissau, Peru.*

Convention No. 69: Certification of Ships' Cooks, 1946

Guinea-Bissau (ratification: 1977)

Article 3, paragraph 2, of the Convention. The Government indicates in its report that, in certain cases, cooks without certificates may be engaged with the authorization of the master of the ship. The Committee recalls that, in accordance with the Convention, exemptions from the obligation to hold a certificate of qualification as a ship's cook may only be granted by the competent national authority in cases where there is an inadequate supply of certificated ships' cooks. The Committee hopes that the Government will take every appropriate measure to bring its legislation into conformity with this provision of the Convention.

Article 4. The Committee notes that, in accordance with section 141 of the Regulations on the Maritime Register, the Registration and Rotation of Ships in the Merchant and Fishing Fleet, examinations must in principle be organized to ascertain the capacity of ships' cooks. It notes, however, that according to the Government's report, this examination does not exist in practice. The Committee recalls that, in accordance with *Article 4, paragraph 1,* of the Convention, the competent authority shall make arrangements for the holding of examinations and for the granting of certificates of qualification. It hopes that the Government will be in a position to take all the appropriate measures to comply with the obligations set out in the Convention.

Part V of the report form. The Government indicates in its report that the inspection services are currently experiencing difficulties in discharging their functions. The Committee requests the Government to indicate the measures which have been taken to resolve this problem and hopes that the Government will be in a position to provide the information requested in its next report.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Australia, Azerbaijan, Bulgaria, Djibouti, France, Greece, Luxembourg, Panama, Poland, Portugal, Russian Federation, Slovenia.*

Information supplied by *New Zealand* in answer to a direct request has been noted by the Committee.

Convention No. 71: Seafarers' Pensions, 1946

Peru (ratification: 1962)

1. With reference to the Committee's previous comments, the Government reiterates in its report that, in accordance with Extraordinary Supreme Decree No. 057-PCM/93, the Ministry of Economy and Finance assumes responsibility for the payment of benefits due under Legislative Decree No. 20530 of 1974 to retirees of the Peruvian Steamship Company (limited liability company in liquidation). The provision of these pensions to former employees and to retirees is on a monthly basis, taking as a reference for the approval of such pensions the strict observance of the positions, wage categories, duration of service and level of pension benefits which were transferred as of 1 October 1992. The above pensions levels aré set, increased and readjusted in accordance with the standards that are in force with regard to pensions and are paid into savings accounts opened in the Bank of the Nation. The Committee notes this information. It requests the Government to continue providing detailed information on the manner in which the above pensions are paid and to furnish information on the situation, with regard to the Convention, of the former retirees of this company who were excluded from the pension fund and who have not been reinstated by court rulings.

2. In its previous comments, the Committee requested the Government to indicate whether the new system of private pension fund management (SPP) established by Decree No. 054-97-EF, of 13 May 1997, applies to persons employed on board or in the service of vessels flying the Peruvian flag and, if so, to provide information on the impact of this system on the application of the Convention. In its report, the Government states that the SPP does not establish any distinction as to the situation of workers who wish to affiliate to it, but that the only exception provided for by the SPP concerns the performance of work in activities which involve risks to life or health. In terms of social insurance, a specific pension scheme for seafarers has not been established as envisaged by the Convention. Seafarers are included in schemes which were not necessarily established for them, but under which they can be insured. There is also a special insurance scheme for maritime workers, who fall within the scope of the national pensions system provided for by Decree No. 19990. Acts Nos. 21952, 21933 and 23237 include within this scheme maritime, inland waterway and dockworkers, and also make provision for the early retirement of maritime workers. The Committee notes this information. It requests the Government to provide detailed information on the impact of the new pension scheme on the application of each Article of the Convention in reply to the questions raised in the report form and to provide, where appropriate, statistics on the number of seafarers covered by the various pension schemes.

3. The Committee notes the information provided by the Government in reply to the communication from the Association of Former Employees and Retirees of the National Ports Enterprise (Empresa Nacional de Puertos S.A.-ACJENAPU) denouncing the violation of the acquired rights of retirees of the Empresa Nacional de Puertos S.A. In its reply, the Government provides detailed information on the legal action taken by the ACJENAPU in its supplementary action against the Empresa Nacional de Puertos. The Committee nevertheless notes that the Insurance Standardization Office (ONP) is still to establish the internal procedure to be followed by the Empresa Nacional de Puertos to give effect to the award by the courts in favour of the ACJENAPU in its supplementary action. The Committee hopes that the Government will take the necessary measures in this respect and requests it to keep the Committee informed of the progress achieved in this regard.

4. The Committee notes the comments of the Union of Crew Members of Maritime Vessels for the Protection of CPVSA Workers concerning, among other matters, the application of the Convention, which were transmitted to the Government on 20 February 2001. The Committee will examine the above comments in the light of any observations that the Government may make in this respect.

[The Government is asked to report in detail in 2002.]

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In addition, requests regarding certain points are being addressed directly to the following States: *Bulgaria, Lebanon.*

Convention No. 73: Medical Examination (Seafarers), 1946

Egypt (ratification: 1982)

The Committee notes with satisfaction the information provided by the Government in response to its observation of 1998, especially on Decree No. 61 (1999) concerning the validity period of 24 months for medical examination certificates.

In addition, a request regarding certain points is being addressed directly to the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Australia, Azerbaijan, Belgium, Bulgaria, Canada, Croatia, Djibouti, Egypt, Finland, Guinea-Bissau, Ireland, Italy, Japan, Republic of Korea, Lithuania, Luxembourg, Malta, Netherlands, Norway, Panama, Peru, Poland, Portugal, Russian Federation, Slovenia, Spain, Sweden, Tunisia, Ukraine, Uruguay.*

Convention No. 74: Certification of Able Seamen, 1946

Requests regarding certain points are being addressed directly to the following States: *Croatia, France, Ghana, Guinea-Bissau, Italy, New Zealand, Panama, Portugal, Slovenia.*

Information supplied by *Poland* in answer to a direct request has been noted by the Committee.

Convention No. 77: Medical Examination of Young Persons (Industry), 1946

Bolivia (ratification: 1973)

Further to its previous observation, the Committee notes the Government's report, in which it states once again its intention to introduce regulations on the establishment of the medical examination for fitness for employment in industry for young workers of 18 years of age. The Committee regrets to note that, although the Government has been repeating this intention for many years, the necessary steps have not been taken to adopt legislative or regulatory measures to give effect to the provisions of the Convention.

The Committee regrets to note that, for more than 20 years and despite repeated requests from the Committee, the Government has not taken appropriate measures to apply, in particular, *Articles 2, 3, 5 and 7 of the Convention*. The Committee is the more concerned as the Government stated in its previous report, regarding *Article 2* of the Convention, that "issuance of a document certifying fitness for work is not established by law, nor is it usual practice". Referring to the same report, the Committee noted with concern the Government's statement pertaining to *Article 4* to the effect that "the competent authority had not been determined [...] nor had the text of the Convention been disseminated in an adequate and timely manner".

The Committee notes that in its last report the Government refers to the Act on Occupational Safety and Health and Welfare, pointing out in particular that section 6(29) requires employers to "maintain the pre-employment medical certificates and clinical records of the personnel in their charge", and section 7(11), which requires workers to "undergo a medical check-up prior to taking up employment, and such periodical examinations as may be determined". The Committee also notes the information in the Government's report concerning the National Institute of Occupational Health (INSO) and the Bolivian Social Security Institute, now the National Health Insurance Institute, and the medical services of enterprises. It notes that the abovementioned Act of 1979 refers to the INSO and its functions (section 20), to the National Social Security Fund (section 24) and the medical services of enterprises (section 41). The Committee also notes that sections 8 and 9 of the Act refer to the employment of women and minors.

The Committee regrets to note, however, that none of the abovementioned provisions refer to the specific obligation for young persons under the age of 18 years to undergo medical examination before admission to employment *(Article 2)*, the frequency of such examinations *(Article 3)*, the frequency of medical examinations until the age of 21 years for young people in occupations which involve high health risks *(Article 4)*, the requirement that the examinations must be free of charge *(Article 5)*, the special measures to be taken where the young person is found by medical examination to be unsuited to the work *(Article 6)* and the requirement to file and keep available to labour inspectors the medical certificate for fitness for employment or the workbook *(Article 7)*.

The Committee therefore recalls that, when a Government chooses to ratify a Convention, it assumes the obligation to take all necessary steps to give effect to its provisions, and urges the Government to adopt the necessary legislative and regulatory measures to apply the provisions of the Articles of this Convention. The Committee reiterates its suggestion that the Government may wish to seek the technical assistance of the Office in finding the best solution to the technical problems which are preventing the application of the Convention.

[The Government is asked to report in detail in 2002.]

Dominican Republic (ratification: 1973)

The Committee notes the information supplied in the Government's reports. It recalls that on ratifying a Convention the Government enters into an obligation to take the necessary steps to give effect to its provisions in both law and practice. This obligation must be met whether or not the ratified Convention is incorporated into domestic law. Consequently, the Committee is bound to repeat its previous comments and urge the Government to take the requisite measures to apply the provisions of this Convention.

Articles 2, paragraph 1, and 3, paragraph 1, of the Convention. The Committee notes that section No. 248 of the Labour Code provides that minors of under 16 years of age wishing to carry out any kind of work must undergo thorough medical examination. The Committee also notes that article 53 of Regulation No. 258-93 of 12 October 1993 provides that such an examination must be carried out in respect of working minors until they reach the age of 16, as established by the Labour Code. The Committee asks the Government to report on the measures it will be taking to raise the age set in the Labour Code and the abovementioned Regulation from 16 to 18 years in order to bring these texts into line with the Convention.

Article 3, paragraphs 2 and 3. The Committee notes that article 53 of the above Regulation provides that minors must undergo yearly re-examinations until they reach the age of majority, i.e. 16 years. The same article further specifies that re-examination shall take place every three months where the work implies a serious risk for the health of the minor. The Committee is bound to remind the Government that this Article of the Convention requires medical re-examinations to be conducted, as prescribed by the national legislation, until the age of 18 years. The Committee therefore urges the Government to amend its legislation in order to bring it into conformity with the provisions of the Convention.

Article 4, paragraphs 1 and 2. The Committee recalls that, according to this Article, minors in occupations which involve high health risks must be required to undergo medical examination and periodical re-examination for fitness for employment, and that the national authorities shall specify the categories of occupations in which such examinations must be required until at least the age of 21 years. According to article 53 of Regulation No. 258-93 of 12 October 1993, the medical examination in question applies only up to the age of 16 years, and is to be repeated every three months when the occupation involves high health risks for the minor. The Committee therefore asks the Government to take the necessary steps to amend its legislation in order to establish that, where the occupation involves high health risks for the minor, the medical examination must be repeated until at least the age of 21 years *(paragraph 1)*. Furthermore, the Committee asks the Government to report on measures adopted to specify the occupations or categories of occupations in which a medical examination for fitness for employment must be required until at least the age of 21 years, or to indicate the appropriate authority empowered so to specify *(paragraph 2)*.

Article 6, paragraphs 2 and 3. The Committee requests the Government to indicate the authority competent to determine the nature and scope of cooperation between the medical services and the labour, health, educational and social services, as provided by this Article of the Convention *(paragraph 2).* The Committee also requests the Government to specify the measures adopted or to be adopted to provide for the issue to children and young persons whose fitness for employment is not clearly determined: (a) temporary work permits or medical certificates valid for a limited period at the expiration of which the young worker will be required to undergo re-examination; and (b) permits or certificates requiring special conditions of employment *(paragraph 3).*

Article 7. The Committee recalls that employers are required to file and keep available to labour inspectors the medical certificate for fitness for employment or the work permit or workbook. The Committee requests the Government to report on the measures adopted to give effect to this provision of the Convention.

Part V of the report form. The Committee asks the Government to provide general information on the manner in which the Convention is applied, for instance, extracts from the reports of the inspection services and information concerning the number and nature of the infringements reported, together with any other data relevant to the practical application of the Convention.

Ecuador (ratification: 1975)

The Committee notes the information contained in the Government's report, and the Labour Code adopted in 1997. The Committee notes with regret that the necessary steps have not been taken to give effect to the Convention as regards *Articles 1, 2, 3, 4, 5, 6 and 7, paragraph (1), of the Convention.*

Article 1. With reference to its previous comments the Committee notes that, according to the Government, the national legislation prohibits employing young persons under the age of 18 in industries or occupations deemed to be dangerous or insalubrious. The Committee recalls in this connection that this Article of the Convention provides that the Convention must apply to young persons employed or working in, or in connection with, industrial undertakings, whether public or private. Paragraph 2 of this provision defines the undertakings to be treated as "industrial undertakings". The Committee notes that the Government plans to frame regulations which will reproduce the definition of industrial undertakings proposed by this Convention. The Committee asks the Government to provide the relevant information on the enactment process and to provide a copy of the regulations as soon as they are adopted. The Committee wishes to stress that this Article, which establishes the field of application of the Convention, defines the undertakings to be treated as industrial. This does not mean that young persons under the age of 18 may not be employed in such undertakings. What the Convention establishes, in *Article 2,* is that young persons who are to be employed in industrial undertakings can be admitted to such employment only after they have undergone a thorough medical examination declaring them to be fit for the work they are to perform.

Article 2. With reference to its previous comments, the Committee notes that the Government refers to section 138 of the Labour Code which establishes that young persons under the age of 18 must not be employed in industries or occupations deemed to be dangerous or insalubrious. This provision lists a series of occupations and states that they will be the subject of special regulations. The Committee points out in this connection that the essential provisions of this Article of the Convention are first, that young persons under the age of 18 may not be admitted to employment in industrial undertakings unless a thorough medical examination has found them to be fit for the work they are to perform *(paragraph 1)*; secondly, the medical examination must be carried out by a qualified physician approved by the competent authority and must be certified either by a medical certificate or by an endorsement on the work permit or in the workbook *(paragraph 2)*. Since the provisions of the new Labour Code (articles 141 to 145) refer only to medical examinations that have to be undergone by young persons under 21 working underground in mines and in quarries, the Committee urges the Government to provide relevant information in its next report on the legislative or regulatory provisions adopted to give effect to this Article by providing that persons under 18 years of age may not be admitted to employment in industrial undertakings unless they have been found by a thorough medical examination to be fit for the employment or work which they are to carry out. Furthermore, the provisions to be adopted must also establish that the examination must be carried out by a physician approved by a competent authority and that the certification for fitness for work must be shown on the work permit or in the workbook.

Article 3. The Committee notes that the provisions of the new Labour Code do not require the fitness of young persons for the employment in which they are engaged to be subject to medical supervision until they have attained the age of 18 years. The Committee therefore urges the Government, in enacting the regulations referred to in its report, to take the necessary steps to ensure that the fitness of young persons for their work is subject to medical supervision until they have attained the age of 18 years and that such examinations are to be repeated at intervals of not more than one year.

Article 4. Further to its previous comments, the Committee notes the information supplied by the Government in its report. It notes in particular that the juvenile court grants the authorization after the report by the social work team (IESS) or by the corresponding labour authority. The Committee observes first that section 138 of the Labour Code, mentioned above, prohibits the employment of persons under the age of 18 years in industries or occupations deemed to be dangerous or insalubrious by this provision. Secondly, section 141 of the Code provides that all enterprises employing workers under the age of 21 underground in mines or quarries shall require prior medical acknowledgement of their fitness for such work and periodical medical acknowledgments. A lung X-ray must be carried out at the initial medical examination and, if deemed medically necessary, at subsequent medical examinations. The Committee therefore urges the Government to take the necessary steps to ensure that young persons under the age of 21 but over the age of 18 employed not only underground in mines or quarries but in any of the jobs set out in section 138 or the special regulations to be adopted which involve high health risks, are required to undergo the appropriate medical examinations, as prescribed by this Article of the Convention.

Article 5. The Committee observes that, apart from the medical examinations to be undergone by young persons under the age of 21 when they are engaged in work underground in mines or quarries, which are free of charge (section 143), no other provision of the Labour Code establishes that the medical examinations to be undergone by young persons under 18 years of age are to be free of charge, in accordance with the

Convention. The Committee therefore asks the Government to take the necessary steps to give effect to this Article of the Convention.

Article 6. Referring to its previous comments, the Committee notes the information sent by the Government. The Committee recalls that, according to this Article of the Convention, the competent authority must take appropriate measures for vocational guidance and physical and vocational rehabilitation of children and young persons found by medical examination to be unsuited to certain types of work; cooperation for this purpose must be established between the labour, health, educational and social services, and national laws or regulations must provide for the issue to children and young persons of temporary work permits or medical certificates and require them to undergo re-examination. The Committee therefore urges the Government to take the necessary steps to apply this Article of the Convention.

Article 7, paragraph 1. The Committee notes that according to section 147 of the Labour Code, employers must file and keep available to labour inspectors special records on minors which must be sent once a month to the Director-General of Labour and Director of Employment and Human Resources. The Committee asks the Government to indicate whether, in addition to the information to be placed on the record pursuant to section 147, employers must file and keep available to labour inspectors the medical certificate of fitness for employment or the work permit or workbook showing that there are no medical objections to the employment or work. If the national legislation contains no such provision, the Committee urges the Government to take the necessary steps to include this obligation in its legislation.

[The Government is asked to report in detail in 2002.]

Malta (ratification: 1990)

The Committee notes the information provided by the Government in reply to its comments. It notes with satisfaction the adoption of the Work Place (Protection of Young Persons) Regulations, 1996, and in particular the provision of section 6, subsection 1, giving effect to *Article 2, paragraph 1, of the Convention* (medical certificate for fitness for employment), as well as section 2, subsection 1, applying *Article 1, paragraph 2(d)*, of the Convention (definition of the word "work").

The Committee is raising further points in a request addressed directly to the Government.

Paraguay (ratification: 1966)

The Committee notes the information contained in the Government's report. It notes in particular that the Directorate-General for the Protection of Minors of the Ministry of Justice and Labour is promoting the reform of the national legislation in order to bring it into conformity with the Convention. The Committee hopes that the abovementioned reform will enable the national legislation to be brought into harmony with the Convention, and repeats its comments on the following points, to which it has been referring for many years.

Article 4, paragraphs 1 and 2, of the Convention. The Committee notes that, according to section 188(c) of the Labour Code, young persons under the age of 18 must undergo a yearly physical and mental fitness examination. The Committee recalls that, as it has already pointed out, as well as the general examination provided for in *Articles 2 and 3* of the Convention, according to *Article 4* of the Convention in occupations which involve high health risks medical examination and re-examinations for fitness for employment must be required until the age of at least 21 years. According to the same Article, national laws or regulations must specify the occupations or categories of occupations in which such an examination shall be required. The Committee notes with concern that the draft Children and Young Persons Code contains no provision to give effect to this Article of the Convention. The Committee therefore urges the Government to take the necessary steps to ensure that the above draft provides that in occupations which involve high health risks for workers under the age of majority, the latter shall undergo a medical examination and re-examinations for fitness for employment until at least the age of 21 years. Provision must also be made for the national legislation to specify the occupations or categories of occupations for which such examinations are to be required.

Article 6, paragraphs 1 and 2. The Committee notes that there are no vocational guidance and physical and vocational rehabilitation measures for young persons found by medical examination to be unsuited to certain types of work or to have physical handicaps or limitations. The Committee asks the Government to take appropriate steps to include in the Bill to amend the legislation the necessary provisions to give proper effect to this Article of the Convention.

Lastly, the Committee asks the Government to supply, in accordance with *Part V of the report form*, statistical data on the number of children and young persons who are employed and who have undergone the medical examinations provided for in the Convention, extracts of inspection reports relating to infringements reported and the sanctions imposed, together with any other information showing how the Convention is applied in practice.

Portugal (ratification: 1983)

The Committee notes the information communicated by the Government. In its previous comments, the Committee noted that section 124, paragraph 1(a) of the regulations governing individual employment contracts, as amended by Legislative Decree No. 396/91 of 16 October 1991, provides for a medical examination to certify hat the physical and psychological capacities of young workers whose employment may exceed three months are adequate for the work to be performed. The Committee notes with satisfaction that the amendment of this provision by Act No. 58/99 of 30 June 1999 emoves all references to the duration of employment and hence the compulsory medical examination for children and young persons must be carried out, irrespective of the duration of the contract of employment.

The Committee also notes the comments made by the General Confederation of Portuguese Workers (CGTP) concerning the implementation of this Convention. It refers n a direct request to these comments and to the explanations given by the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the ollowing States: *Algeria, Azerbaijan, Belarus, Belgium, Bulgaria, Cameroon, Cuba,* *Czech Republic, Guatemala, Hungary, Israel, Italy, Kyrgyzstan, Luxembourg, Malta, Panama, Peru, Portugal, Tajikistan, Ukraine.*

Convention No. 78: Medical Examination of Young Persons (Non-Industrial Occupations), 1946

Bolivia (ratification: 1973)

The Committee notes the information supplied by the Government in its last report to the effect that the Ministry of Labour and Micro-enterprises is planning, amongst other things, a study on the draft regulations to implement the General Health and Safety (Industry) Act which are to include the prescriptions concerning medical examination of young persons. The Government adds that the abovementioned Act covers medical examination of young persons in non-industrial occupations.

Article 2 of the Convention. The Committee also notes that, according to the Government, in regard to this and the other Articles of the Convention, regulations are to be adopted which are compatible with the Children and Young Persons Code. The Committee recalls that the Government has been stating for many years that it will adopt the necessary laws and regulations to give effect to the provisions of the Convention. The Committee therefore urges the Government to ensure that such measures are adopted in order to bring the national legislation into line with the provisions of the Convention.

The Committee again asks the Government to take into consideration Recommendation No. 79 on the medical examination of young persons, particularly Paragraph 14 on methods of enforcement in respect of young persons engaged either on their own account or on account of their parents in itinerant trading or in any other occupation carried on in the streets or in places to which the public have access.

See the Committee's comments under Convention No. 77.

[The Government is asked to report in detail in 2002.]

Cameroon (ratification: 1970)

The Committee notes the information supplied by the Government in its report. It notes that children under the age of 18 years, even in non-industrial work, must comply with the provisions of section 100 of the Labour Code under which "every employee must undertake a compulsory medical examination before recruitment". The Committee notes that this information does not reply to the comments made in its previous observations. The Committee recalls that the Government emphasized that the independent activities of children and young persons are carried out in the informal sector which eludes the supervision of the labour inspectorate and that application of the Convention to this sector cannot be envisaged until some degree of control is exercised over the sector. The Committee also recalls that during the discussion that took place at the 82nd Session of the Conference (June 1995) the Government representative recognized the soundness of requesting an extension of the requirement of a medical examination for fitness for employment to all categories of young workers. He stated that the Government was aware of the necessity of this examination for children and young persons. Given that on a number of occasions the Government has expressed its intention of taking measures with a view to subjecting children and young persons working in the informal sector to the provisions of the Convention, the Committee reiterates its hope that the Government will take the necessary measures to this end and will communicate the results which will ensure application of this Convention to this category of children and young persons.

[The Government is requested to report in detail in 2003.]

Ecuador (ratification: 1975)

Articles 1, 2, 3, 4, 5 and 6 of the Convention. Please refer to the comments made under Convention No. 77.

Article 7, paragraph 2(a). With reference to its previous comments the Committee notes the information provided by the Government in its report indicating that national laws and regulations provide that young persons who work on their own account may obtain a card issued by the municipality in coordination with the tribunals for young persons. This card allows them to have access and obtain voluntary insurance under the IESS so that they are entitled to all of its benefits. According to the Government, the medical examination of young persons is included in these benefits. The Committee requests the Government to indicate the national provision which provides for the obligation of young persons to possess a card, and whether this provision of a law or regulations requires that the above card shall contain the mention that the young person has undergone a medical examination and, in any case, whether the provision in question guarantees that young persons engaged either on their own account or on account of their parents in itinerant trading must in practice first undergo an examination.

[The Government is asked to report in detail in 2002.]

Paraguay (ratification: 1966)

The Committee notes the information contained in the Government's report, and particularly the draft legislation that is being initiated by the General Directorate for the Protection of Young Persons and the Ministry of Justice and Labour respecting the legislative reforms required to bring the national legislation into conformity with the Convention. The Committee hopes that the above draft text will be adopted in the near future and will contain provisions giving effect to the various Articles of the Convention, and particularly *Article 6*, on the application of which the Committee has repeatedly commented.

The Committee also requests the Government to take into account the comments made under Convention No. 77.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Azerbaijan, Belarus, Bulgaria, Cuba, Czech Republic, Guatemala, Honduras, Hungary, Israel, Italy, Kyrgyzstan, Luxembourg, Malta, Panama, Peru, Portugal, Tajikistan, Ukraine.*

Convention No. 79: Night Work of Young Persons (Non-Industrial Occupations), 1946

Paraguay (ratification: 1966)

The Committee notes the various amendments to section 122 of the Labour Code in relation to the prohibition of night work of young persons.

In 1976 the Committee noted with satisfaction that section 122 of the Labour Code had been amended by Act No. 506 of 1974 so as to comply with the provisions of *Articles 2 and 3 of the Convention*. Section 122 (amended) provided that young persons under 18 years of age would not be employed at night during an interval of 12 consecutive hours which must include the period between 10 p.m. and 5 a.m. For young persons under the age of 16 years, the period of prohibition of night work should include the interval between 10 p.m. and 6 a.m. Under the same provision, young persons of under 15 years of age could not be employed at night for a period of at least 14 consecutive hours which included the interval between 8 p.m. and 8 a.m. The same provision was included in the new Labour Code of 1993 (Act No. 213/93). Section 122 gave effect to *Articles 2 and 3* of the Convention.

The Committee regrets to note the amendment of section 122 of the Labour Code by Act No. 496 of 22 August 1995. Under the provisions of new section 122, young persons between 15 and 18 years of age shall not be employed at night for a period of ten hours included between 8 p.m. and 6 a.m. The amendment has reduced to ten hours the 12 hours required by the Convention which was laid down in section 122 of the Code before it was amended by Act No. 496 of 22 August 1995. In addition, the new provisions of section 122 do not stipulate an interval of 14 hours for young persons under 15 years of age. The Committee also notes that section 189 of the Young Persons' Code (Act No. 903/81) prohibits young persons under 18 years of age from carrying out work at night between 8 p.m. and 5 a.m., namely, for a period of nine hours. As well as being in contradiction with national legislation which lays down ten hours (section 122 of the Labour Code), it is also in contradiction with *Article 3* of the Convention which lays down an interval of 12 consecutive hours.

The Committee notes the backward step in legislation on protection of young persons at a time when night work has been included in the concept of hazardous work in the Worst Forms of Child Labour Recommendation, 1999 (No. 190). Immediate action for its eradication is needed taking into account the ratification by Paraguay of the Worst Forms of Child Labour Convention, 1999 (No. 182), in March 2001.

The Committee hopes that the Government will take the necessary measures to bring legislation into conformity with the provisions of the Convention by amending sections 122 of the Labour Code and 189 of the Young Persons' Code.

The Committee refers to its comments on the application of Convention No. 90.

[The Government is asked to supply full particulars to the Conference at its 90th Session and to report in detail in 2002.]

* * *

In addition, a request regarding certain points is being addressed directly to *Kyrgyzstan*.

Convention No. 81: Labour Inspection, 1947

Algeria (ratification: 1962)

1. The Committee notes the Government's report. It also notes with interest, firstly, the information in the document on the development of the human resources of the labour inspectorate describing training activities for a large number of labour inspectors and inspection services officials, in particular by means of seminars and computing courses, and by the acquisition and duplication of specialists works, as well as through Franco-Algerian bilateral cooperation; and, secondly, the legislative texts which have been communicated (in particular, Act No. 90-03 of 6 February 1990 as amended and supplemented by Order No. 96-11 of 10 June 1996 concerning labour inspection, which gives effect to *Articles 3, paragraphs 1(a), (b) and (c); 12; 13; 15; 17; and 18 of the Convention;* Executive Decree No. 90-209 of 14 July 1990 concerning the structure and functioning of the general labour inspectorate, which gives effect to *Articles 4; 5(a); 19;* Executive Decree No. 91-44 of 16 February 1991 concerning the particular status applicable to labour inspectors, which gives effect to *Articles 3, paragraph 1(a), (b) and (c); 5(b); 6; 7; 12; 13; and 15;* Executive Decree No. 93-120 of 15 May 1993 concerning the structure of occupational medicine, which gives effect to *Articles 9, 12, paragraph 1, and 13*; and Act No. 83-1983 as amended and supplemented by Order No. 96-19 of 6 July 1996 concerning occupational accidents and diseases, which gives effect to *Article 14*).

2. Noting that the annual inspection report has not been communicated, the Committee asks the Government to take the necessary steps to ensure that in future an annual report on the activities of the inspection services containing up-to-date information on each of the subjects enumerated under *subparagraphs (a) to (g) of Article 21* is published and communicated to the ILO within the time limits prescribed by *Article 20*.

The Committee is addressing a request concerning other points directly to the Government.

Angola (ratification: 1976)

The Committee notes the information contained in the Government's reports for the period ending May 2001, and the statistics attached in the annex.

1. *Wages, terms and conditions of service and means of transport of labour inspectors (Articles 10, 11, paragraph 1(b), and 16 of the Convention).* The Committee notes the difficulties of a material nature and the inadequacy of human resources facing the provincial departments of the labour inspectorate. Emphasizing, as it did in paragraph 214 of its 1985 General Survey on labour inspection, the economic and social value of labour inspection and the social cost of reducing its effectiveness, the Committee draws the Government's attention to the need to secure for the institution, in the distribution of the national budget, the priority that corresponds to its objective. Human resources and material needs must be determined taking into account the various branches of economic activity, the number of enterprises and their geographical distribution, as well as the number of workers employed, the means of communication

and the public transport available. The Committee places particular emphasis on the need to secure transport facilities for labour inspectors, without which they are not able to inspect workplaces as thoroughly and as frequently as set out in *Article 16*. It requests the Government to take all the appropriate measures to improve and develop the means of action of the labour inspectorate, to provide information on any progress achieved or any difficulties encountered and to furnish statistical data regularly concerning the staffing and geographical distribution of labour inspection services, and the means of transport available to such services in their respective jurisdictions.

2. *Labour inspection and child labour*. In reply to the Committee's general observation in 1999 on the role of labour inspection in combating child labour, the Government refers to the recent ratification of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182). The Committee hopes that the Government will not fail to take measures to enable labour inspectors to participate actively in combating unlawful work by children and to inform the competent authorities of the situation in the country in this respect.

The Committee is addressing a request directly to the Government on other points.

Barbados (ratification: 1967)

The Committee notes the Government's report in which reference is made to the observations of the Barbados Workers' Union (BWU). According to the above union, the labour inspection services' main problem is the lack of inspectors to deal with the growing number of complaints. The Committee hopes that the Government will not fail to give its views on the matter in its next report.

The Committee is addressing a request directly to the Government concerning other matters.

Belize (ratification: 1983)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> Publication of an annual inspection report. The Committee notes that no annual report containing information on the activities of the inspection services has been transmitted since the report of the Labour Department for 1990. With reference to paragraphs 272 and 273 of its 1985 General Survey on labour inspection, it emphasizes once again the importance that it attaches to the publication of an annual report, the form and the content of which are determined in *Articles 20 and 21*. The application of the legislation concerning conditions of work and the protection of workers while engaged in their work can only be improved if precise data are available on the subjects enumerated in *Article 21(a) to (g)*. The collection of this information requires the competent inspection services to comply with the obligation of periodical reporting established in *Article 19*. The publication of annual reports prepared by the competent central authority on the basis of these periodical reports offers the social partners the opportunity to express their views on the manner in which the application of the relevant legislation is supervised and allows the Government to guide its activities in relation to its priorities, taking into account the available resources. However, the Committee notes that one of the fundamental types of data necessary for such an exercise, mainly the number of workplaces liable to inspection, is not available, since the legislation concerning the registration of industrial and commercial enterprises is not applied. The Committee cannot recommend the Government too strongly to ensure that the registration of

> workplaces and the workers employed therein is carried out rapidly. It hopes that the Government will be in a position to provide information on the results of this operation in its next report and to ensure the proper application of *Article 21* in the near future.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Bolivia (ratification: 1973)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> With reference to its previous observation, which has been repeated several times since the discussion in the Conference Committee in 1992 on the difficulties of applying the Convention, the Committee notes the reports sent by the Government in 1998 and 1999. Noting that the Government provides information in reply to earlier direct requests, the Committee emphasizes and reminds the Government that its comments were made in the form of observations published in its reports on the work of the 1995(bis), 1996 and 1997 sessions, and points out that the information supplied by the Government in its reports received in June 1998 and November 1999 do not answer those observations. The Committee must accordingly stress once again that specific and detailed information should be supplied on the following points.
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> *Articles 5(b) and 7 of the Convention.* In reply to the question about measures taken to promote collaboration between officials of the labour inspectorate and employees and workers or their organizations, the Government cites the provisions of the Health and Safety Act, 1979. The Committee points out that for one thing, the Act was already mentioned in earlier reports by the Government and, in the Committee's view, is not sufficient to meet the obligation provided for in *Article 5(b)* and, for another, the excerpt from the Act attached to the 1999 report does not include the provisions relied on by the Government. The Committee recalls that, in the Government's report for 1993, it was considered practical to establish tripartite commissions to promote effective collaboration between officials of the labour inspectorate and employers and workers or their organizations. However, the Government found that it was first necessary to raise the level of legal and vocational training of labour inspectors through a programme of technical assistance from the ILO Regional Office. The Committee would be grateful if the Government would provide a copy of the entire Act as now in force together with specific information on the practical aspects of its application. It asks the Government to give details of all measures taken to raise the level of competence of labour inspectors with a view to establishing tripartite commissions for collaboration in labour inspection.
>
> *Articles 11 and 16.* Recalling the Government's indication in an earlier report that the working conditions of labour inspectors had improved except in the area of urban transport, the Committee would be grateful if the Government would specify the nature of the improvements made for labour inspectors since 1989 and provide information on any measures taken or envisaged to provide them with the transport facilities they need in order to carry out inspection visits.
>
> *Article 10.* The Committee notes that no information has been provided on the number, geographical distribution and categories of the labour inspectors covered by this Convention. The Committee considers that in the absence of any figures, it is impossible to ascertain whether the human resources are commensurate with the objectives of the Convention and asks the Government in its next report to provide the detailed information required by the report form on the Convention for each provision of this Article.
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> *Articles 20 and 21.* The Committee notes with regret that although the Government has for many years reiterated its commitment to taking appropriate steps to publish and

> transmit to the ILO an annual inspection report in accordance with these provisions of the Convention, no such report has been received. Also noting that no measures appear to have been taken to ensure that such reports are produced, the Committee reminds the Government that such reporting is an obligation that derives from ratification of the Convention and that technical assistance from the ILO may be sought for the purpose. It would be grateful if the Government would do its utmost as soon as possible to give effect to the relevant provisions of the Convention and to transmit any relevant information to the ILO.
>
> The Committee is addressing a request on other points directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Bosnia and Herzegovina (ratification: 1993)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes that the Government has supplied no report on the application of the Convention since 1993.
>
> 1. *Obligation to report on ratified Conventions.* Recalling to the Government its formal acceptance on 12 April 1993 of the obligations of the ILO Constitution, in conformity with article 1, paragraph 3, thereof, the Committee would be grateful if the Government would provide periodic reports on the manner in which effect is given, in law and in practice, to the provisions of the present Convention by supplying the information requested in the report form adopted by the Governing Body to this end.
>
> 2. *Right to free access of labour inspectors to workplaces liable to inspection.* A representation addressed to the ILO on 9 October 1998 under article 24 of the ILO Constitution by the Union of Autonomous Trade Unions of Bosnia and Herzegovina (USIBH) and the Union of Metalworkers (SM) alleging non-observance by the Government of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Committee established by the Governing Body of the ILO to examine the representation considered in the conclusions to its report adopted at the 276th Session of the Governing Body (November 1999) that the facts placed before it also constituted violations by the Government of the Termination of Employment Convention, 1982 (No. 158), and of Convention No. 81. It consequently adopted a series of Recommendations including that of entrusting the follow-up of the matter to the present Committee, especially for the purpose of monitoring the application of the Conventions cited above.
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> The representation in question reported a decision to dismiss 1,550 workers, on the basis of national origin or religion, taken by the directors of the "Aluminium" and "Soko" factories, both situated at Mostar. It established that the inspectors mobilized by the trade union organizations to verify the facts and enquire into the precise circumstances of the dispute were unable to accomplish this task in the factories since they lacked the explicit prior authorization of the Cantonal Minister. The Committee notes that the fact that a cantonal labour inspector should be obliged to request authorization from the Cantonal Minister before undertaking an inspection visit is not in conformity with *Article 12(1) of this Convention*. The Committee stresses that, under *Article 12(a)*, labour inspectors should effectively be authorized to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection. Referring also to paragraphs 156 to 168 of its 1985 General Survey on labour inspection, the Committee requests the Government to take, as soon as possible, all necessary measures to repeal from the legislation the requirement that labour inspectors must seek the authorization of a higher authority to exercise their right of entry in the establishments and workplaces liable to their inspection.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Burkina Faso (ratification: 1974)

The Committee notes the Government's reports and the information they contain which partly reply to its previous comments. It draws the Government's attention to the following points.

1. *Labour inspectorate and child labour.* In response to the Committee's general observation of 1999 on the Labour Inspectorate's role in combating child labour, the Government indicates the recent ratification of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182). The Committee further notes with interest that the Government has signed a Memorandum of Understanding with the International Programme on the Elimination of Child Labour (IPEC) and that in this context labour inspectors and supervisors attended an awareness-raising seminar. Noting that, according to the Government, the material and human constraints impeding action by the labour inspection services in this area are gradually being reduced, the Committee hopes that the Government will not fail to take all possible measures enabling labour inspectors to participate actively in combating unlawful child labour and inform the competent authorities of the country's status in this regard.

2. *Reimbursement of travelling and incidental expenses necessary to the performance of duties of labour inspectors.* With reference to its previous comments and noting the information supplied by the Government for the period ending May 2000 concerning the increase in the number of regional labour directorates and the forthcoming expansion of their equipment and means of transport, the Committee once again asks the Government to provide information enabling it to ascertain whether the allowances granted to inspectors under Decree No. 95-395 of 29 September 1995 are adequate to cover the travelling and incidental expenses in accordance with *Article 11, paragraph 2, of the Convention* which they need to conduct inspection visits as frequently as prescribed by *Article 16*.

3. *Free access of labour inspectors to workplaces liable to inspection.* The Committee would be grateful if the Government would supply information on the measures announced in a previous report to bring into line with the Convention the legislation allowing labour inspectors free access to workplaces in accordance with *Article 12, paragraph 1(a)*, at any hour of the day or night to any workplace liable to inspection and *paragraph 1(b)*, by day to any premises which they may have reasonable cause to believe to be liable to inspection.

4. *Annual reports on the work of the inspection services.* The Committee notes with regret that, although the Government has repeatedly announced the preparation of an annual inspection report, the information on the items listed in *Article 21(a) to (g)* has still not been published or transmitted in the form of some kind of report as prescribed by *Article 20*, the last annual statistics sent to the ILO dating back to 1993. The Committee draws the Government's attention to the importance, for the aims of the Convention, of publishing an annual inspection report drawn up on the basis of the guidelines given in *Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81)*. At the national level, it enables those concerned, particularly employers and

workers and their organizations and public and private institutions whose activities are related to the world of work, to become acquainted with the operation of the inspection services and the difficulties the latter may encounter in carrying out their activities and to elicit their reactions in a constructive spirit. Furthermore, transmission of such a report to the ILO within the prescribed time limit is intended to enable the international supervisory bodies to assess the extent to which the Convention is applied and provide the Government with useful guidelines for improvement. The Committee would be grateful if the Government would take appropriate steps to ensure that the central inspection authority fulfils its obligation to produce an annual report in accordance with *Articles 20 and 21*, and to provide information in the near future on progress made.

The Committee is addressing a request directly to the Government on other matters.

Cape Verde (ratification: 1979)

The Committee notes the Government's report and the partial information provided in reply to its previous comments. It also notes Legislative Decree No. 90/97 of 31 December 1997 approving the new conditions of service of the general labour inspectorate, and Legislative Decree No. 55/99 of 6 September 1999 respecting safety and health conditions at the workplace. The Committee draws the Government's attention to the following point.

Publication and transmission of an annual inspection report (Articles 20 and 21 of the Convention). Noting once again the failure to apply these provisions of the Convention, and with reference to the Government's statement that an annual inspection report is currently being prepared, the Committee wishes to emphasize the need to publish an annual inspection report, as set out in the provisions of the Convention. The objective of such publication is to enable employers and workers and their representative organizations, as well as any other interested party, to be informed of the means, activities and effectiveness of the inspection services, as well as the difficulties that they may encounter in their duties and to seek their reactions for constructive purposes. The annual publication of practical and detailed information, in accordance with the guidance provided in *Paragraph 9 of Recommendation No. 81* which supplements the Convention, on each of the matters set out in *points (a) to (g) of Article 21*, and their transmission to the ILO within the time limits prescribed in *Article 20*, would also enable the international supervisory bodies to evaluate the level of application of the Convention and provide useful guidance for its improvement. The Committee trusts that the Government will make every effort to give effect to these two essential Articles of the Convention and will not fail to provide relevant information with its next report.

The Committee is addressing a request directly to the Government on other points.

Chad (ratification: 1965)

The Committee notes the Government's report for the period ending September 2000, and the report on the activities of the inter-prefectoral labour inspectorate for the northern zone for the period December 1998-November 1999. It notes that the Government's report due for the Committee's present session has not been received.

Material resources of the labour inspectorate and effectiveness of its activities (Articles 11 and 16 of the Convention). The Committee notes that, due to the absence of adequate material resources for its work, the inspection services are unable to discharge their duties. According to the information contained in the report on the activities of the inter-prefectoral inspectorate referred to above, which covers eight prefectures, there is only one service vehicle, in a poor condition, for all inspectors. As a result, no inspection could be made outside N'Djamena. The Committee had already noted in its 1985 General Survey on labour inspection the hope expressed by the National Union of Workers of Chad that, with international assistance, a solution could be found to the material difficulties preventing the operation of the inspectorate, and particularly the lack of transport facilities and equipment. In previous reports, the Government announced that efforts would be made to improve the situation. The Committee hopes that the Government has indeed taken the appropriate measures to seek and obtain in the context of international cooperation the funding necessary for the renewal of inspection activities and that it will provide information in its next report on developments in the situation.

Colombia (ratification: 1967)

1. With reference to its previous comments, the Committee notes with satisfaction that the supervision of trade union activities entrusted to labour inspectors by section 41 of Legislative Decree No. 2351 of 1965, which is in contradiction with *Article 3, paragraph 2, of the Convention*, has been abolished by section 20 of Act No. 584 of 13 June 2000 repealing and amending certain provisions of the Labour Code.

2. The Committee nevertheless notes that the principal activities carried out by labour inspectors remain conciliation in the context of labour disputes and a certain number of other activities not closely related to the principal duties that should be assigned to them in accordance with *Article 3, paragraph 1*. Labour inspectors, whose numbers do not appear to have increased according to statistics for the year 2000, undertook 64,985 conciliation procedures, not including attempted conciliations, but only carried out 6,692 workplace inspections, including inspections related to occupational safety and health. Each inspector would have therefore carried out only 24.5 inspections, compared with 238 conciliations during the above period. The Committee would be grateful if the Government envisages taking the necessary measures to ensure that inspectors in future devote most of their working time to their principal duties relating to the application of the legislation, with priority being given to the inspections which, in accordance with *Article 16*, they should undertake as often and as thoroughly as possible. It trusts that the Government will not fail to provide the ILO with information in this respect and that the results of the relevant measures will be reflected in the near future in statistical data on the work of the labour inspectors in accordance with the letter and spirit of the above provisions of the Convention.

The Committee is addressing a request directly to the Government on other points.

Comoros (ratification: 1978)

Referring also to its previous observation, the Committee notes that the Government reiterates its request for technical assistance with a view to strengthening the capacity of the labour administration. It also notes that the Government has communicated the observation formulated by the Union of Autonomous Comorian

Workers' Organizations (USATC) concerning the implementation of the Convention as well as the Government's reply to the issues raised.

According to the USATC, the Government is not granting the labour inspectorate the status it deserves in view of the importance of its task. It stresses, in this regard, the need to grant a larger budget to the labour inspectorate in order to make it operational. The union also suggests that specific projects should be prepared and implemented with support from the ILO and the Regional Programme for the Promotion of Social Dialogue in French-speaking Africa (PRODIAF), in order to strengthen the human resources capacity of the labour inspectorate and social partners.

The Government recognizes the relevance of the USATC observation regarding the need to strengthen organizational capacity and boost the training of labour inspectors and social partners. The Committee notes the Government's hope of achieving this through technical assistance from the ILO and from PRODIAF. The Committee hopes that the Government has taken the necessary steps to this end and that it will provide information in its next report on the results achieved. It would also be grateful if it would gather and communicate to the ILO, as expressed in its previous observation, data available on legislation and on human and material resources available to the labour inspectorate, and indicate the state structures and, where appropriate, private structures exercising direct competence in the field of inspection or cooperating therein.

Costa Rica (ratification: 1960)

The Committee notes that the Government's report has not been received.

The Committee notes the observations made by the Trade Union Association of Public Employees in the Customs Sector (ASEPA). It notes the Government's explanations given in reply and the copies of the legislation recently adopted in the areas covered by the Convention: Decrees Nos. 28578 and 29477 of 20 and 23 February 2001 on the organization of the labour inspection services; Decree No. 29361 of 20 February 2001 on the composition of national and regional advisory councils; Decree No. 29530 of 18 April 2001 concerning the award of compensation to labour inspectors and Directive No. 1-67 of 3 July 2001 issuing the handbook of labour inspection procedures.

1. *Prosecution for breaches of labour law.* The ASEPA objected strongly to the slowness of administrative and judicial procedures to prosecute offences against labour legislation, on the grounds that the perpetrators often go unpunished because 29.5 per cent of the cases are time-barred. According to the Government, this assertion is unfounded at least as concerns complaints of trade union persecutions since 1998 and, by analogy, other complaints. The Committee would be grateful if the Government would transmit statistical information on the complaints filed with the competent courts, the number of complaints heard and the sanctions imposed since 1998.

2. *Labour inspection and child labour.* The Committee notes with interest that, under Directive No. 1 of 13 March 2001 issued by the Minister of Labour and Social Security, in every regional inspection office an inspector will be responsible for the problem of child labour in cooperation with the committees for children and young people, the relevant committee in each community and other bodies whose mission is the elimination of child labour and the protection of young people's working conditions in the context of the policies promoted by the Government. The Committee notes that,

under the above Directive, the labour inspectorate is to establish the programme of activities in cooperation with the Office for the Supervision and Elimination of Child Labour and Protection of Young Persons at Work, responsible for supervision and technical assistance. The Government is asked to supply detailed information on the measures taken in the context of the above Directive and the results obtained in the light of the objectives sought.

The Committee is again addressing a request directly to the Government seeking information on points raised in its previous comment.

Djibouti (ratification: 1978)

The Committee notes the Government's report and the documentation attached, as well as the partial information provided in reply to its previous comments. With reference to the Government's statements, which have been repeated on many occasions, to the effect that measures would be taken to prevent, in accordance with *Article 3, paragraph 2, of the Convention*, the conciliation duties discharged by labour inspectors interfering with their principal duties, as set out in *paragraph 1* of the same Article, the Committee notes, however, that the situation has deteriorated still further in this respect. Indeed, the information provided shows that, far from having its human and material resources strengthened, the single inspection service suffers from ever more inadequacies in all respects. According to the Government's report, the number of inspections has continued to fall due to the economic crisis, which has resulted in a freeze on the recruitment of labour inspectors and the reduction in their professional means of transport. As they cannot devote themselves to their principal duties, inspectors are therefore principally confined to discharging administrative tasks. The statistics on the activities of the inspection services provided in the annex to the Government's report reflects this situation. Noting the request by the Government for technical assistance, particularly with a view to the publication of an annual inspection report, in accordance with *Articles 20 and 21*, the Committee hopes that this request will be examined favourably, and that such a report will be duly published and transmitted to the ILO in the near future.

In any event, the Government is requested to provide information on the current staffing of the labour inspectorate, the number of workplaces liable to inspection, the number of workers employed therein, with details on the manner in which workplace inspections are carried out *(Article 10(a), (b) and (c))*. Please also describe the means of transport available to labour inspectors for their professional travel *(Article 11, paragraphs 1(a) and 2)*.

Dominican Republic (ratification: 1953)

The Committee notes the Government's report for the period ending on 31 May 2001, and the annexes attached thereto. With reference to its previous comments, the Committee again draws the Government's attention to the following points.

1. *Right of labour inspectors to enter freely any workplace liable to inspection (Article 12, paragraph 1, of the Convention).* The Committee notes that the Government's report does not contain the information requested concerning the

measures taken or envisaged to enable inspectors legally to enter at any hour of the day or night any workplace liable to inspection *(1(a))* and to enter by day any premises which they may have reasonable cause to believe to be liable to inspection *(1(b))*. The Committee again stresses the importance of allowing inspectors to enter freely establishments employing workers covered by the labour legislation in order to carry out checks, particularly regarding illegal work and the state of machinery and plant even outside the working hours of the establishments concerned. It therefore hopes that the Government will take the necessary steps to overcome this serious shortcoming in the legislation in the light of the Convention's objectives, and that it will supply information in this regard in its next report.

2. *Scope of supervisory powers (Article 12, paragraph 1(c)(iv)).* Referring to paragraphs 176 and 177 of its General Survey on labour inspection of 1985, the Committee hopes that the Government will provide information on measures taken to ensure that labour inspectors have the authority to take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified of any samples or substances taken or removed for such purpose.

3. *Prosecution of offences and imposition of penalties (Article 18).* The Committee refers again to the conclusions of a report drawn up in 1991 by the Inter-American Labor Administration Center showing that fines are usually negligible, and notes that the Government mentions no measures to remedy the ineffectiveness of the labour inspection system in this regard. It therefore asks the Government once again to specify the measures taken or envisaged to ensure that in practice sufficiently dissuasive and effective sanctions are applied for violations of the legal provisions covered by the Convention and for obstructing labour inspectors in the performance of their duties.

The Committee is addressing a direct request to the Government in which it raises other matters.

Ecuador (ratification: 1975)

With reference to its general observation of 1999, the Committee notes with interest that a campaign to raise awareness concerning child labour has been launched with the support of the International Programme on the Elimination of Child Labour (IPEC), and that training programmes for labour inspectors on child labour and related information collection mechanisms are currently being implemented. The Committee would be grateful if the Government would provide detailed information in its next report on the operation and impact of the above awareness campaign, as well as on the number of inspectors concerned by the training.

Articles 10, 11 and 16 of the Convention. With reference to its previous observation, the Committee notes that the Government envisages requesting international financial cooperation with the technical support of the ILO, with a view to establishing an inspection system, in accordance with the provisions of the Convention, and the reinforcement of the material resources and transport facilities required by inspectors for the discharge of their duties. The Committee hopes that these measures will be well received and that the Government will soon be in a position to provide information in this respect.

Articles 20 and 21. The Committee notes that the statistical bulletin provided under these provisions does not refer to inspection activities and does not contain the information required concerning each of the subjects set out in *Article 21(a) to (g).* With reference to paragraphs 274 et seq. of its 1985 General Survey on labour inspection, in which it emphasizes the importance at the national and international levels of the publication and transmission of annual general reports on the work of the inspection services, the Committee once again hopes that the Government will take the necessary measures to ensure that annual inspection reports, in accordance with these provisions, are in future published and transmitted to the ILO within the time limits prescribed by *Article 20.*

The Committee is addressing a request directly to the Government on certain points.

Finland (ratification: 1950)

The Committee notes the Government's report and the information supplied in reply to its previous comments. It also notes the observations made by the SAK (Central Organization of Finnish Trade Unions) and incorporated by the Government into its report. According to the SAK, the resources and staff numbers of the inspection services responsible for safety at work have decreased over the past ten years while their functions have expanded and the problems inherent in the world of work have multiplied. The SAK draws attention to the fact that the duties of the inspection services have expanded in particular because of the adoption of new legislation such as the Data Protection Act and the Occupational Health Care Act, as well as due to the new challenges and hazards linked with changes in the world of work such as the increase in the number of enterprises, drug abuse and violence. The SAK therefore considers that the resources of the inspection service are no longer adequate in industry and the service sectors either in regard to supervision of safety at work or in regard to checking of contractual employment terms and conditions. Stressing the rarity of inspections in these two fields, the SAK demands, first, an increase in the financial and human resources of the inspection services responsible for safety at work and, secondly, a greater number and better quality of inspections, while advocating that mental well-being at work and violence-related problems should be taken more into account.

The SAK considers that monitoring the terms and conditions of foreigners' employment contracts is a particular challenge and that the supervisory powers of inspection officials should be enhanced in this respect. According to the SAK, finance for development and organization of such supervision should be an integral part of the operating costs of the administration responsible for health and safety at work.

The Committee would be grateful if the Government would give its views on each of the points raised by the SAK and communicate information on any measures taken in relation to the proposals made.

The Committee notes the Government's indication that regional distribution of the resources of inspection services responsible for safety and health at work is under review and it is planned to transfer officials based in the east and north of the country to regions in the south when vacancies occur. It also notes that under a global agreement for 2001-02 on income policy, the Ministry of Social Affairs and Health has established a tripartite working group for the development of resources of the inspection services responsible for occupational health and safety. The Government is requested to communicate information on the conclusions of the working group which should complete its work in November 2001, and also of any measure taken as a result.

France (ratification: 1950)

The Committee notes the Government's detailed report and the attached documents, including Decree No. 2000-747 of 1 August 2000 issuing the specific conditions of service of the agents of the labour inspectorate and the new regulations issued in 2000 and 2001 concerning the provision to the staff of the labour inspectorate of various specific bonuses. However, the Committee notes that the Government does not indicate its position with regard to the comments made by the trade union CGT PTT of the Department of L'Aisne in a letter dated 28 December 1999, transmitted to the ILO by the Government on 9 February 2000. In the view of the trade union, the exclusion of private law contractual workers in the postal services from the purview of the labour inspectorate is contrary to the provisions of the Convention. In particular, it draws attention to the absence of protection of these workers, whose contractual conditions are, it alleges, in violation of the labour legislation and are resulting in the abusive precariousness of their situation. According to a note published in June 2000 by the Central Support and Coordination Mission of the Decentralized Labour and Employment Services (MICAPCOR), the question of the competence of the labour inspectorate with regard to staff representatives has henceforth been resolved by point 122 entitled "case of public sector enterprises" of Circular DRT No. 3 of 1 March 2000 respecting administrative decisions concerning the dismissal of protected employees. The note indicates that, as the postal services are henceforth considered to be a public industrial and commercial establishment, under Decisions 18824 and 18826 of the Conseil d'Etat dated 13 November 1998, the Labour Code therefore applies to private law employees and, in these circumstances, the labour inspectorate is competent to intervene where these employees are concerned if their duties are of the same nature as those envisaged by the Labour Code. The MICAPCOR is reported to have expressed an identical opinion in a note dated 12 July 1999, published in the "notes of the mission No. 38 of July 1999". The Committee notes that, according to the information provided by the Government under *Article 26*, in most cases it is the MICAPCOR which responds to the question of whether certain public law entities are subject to the Labour Code, and therefore to supervision by the labour inspectorate, as governed by this Convention. The Committee hopes that the Government will not fail to provide clarifications concerning the liability of postal service establishments to supervision by the labour inspectorate, provide copies of any relevant text and indicate the measures taken to ensure the application of legal provisions respecting conditions of work and protection to workers engaged in these establishments under private law contracts.

With reference to its previous comments concerning the observations made by the trade union organizations *Force Ouvrière (FO)* and the French Democratic Confederation of Labour (CFDT) concerning the freeze imposed on the National Labour Inspection Council (CNIT), the Committee notes that, according to the Government, it is proposed to set up this tripartite body established by Decree No. 83-135 of 24 February 1983. Placed under the minister responsible for labour, the CNIT is competent for labour inspection under the authority of the minister responsible for labour, labour inspection in agriculture, labour inspection in transport, maritime labour inspection and labour inspection in areas under the competence of the minister responsible for industry. The Council would issue opinions, and transmit them to the Government and to Parliament, on the state of the application of labour law, on the training programme of the National Labour, Employment and Vocational Training Institute and on the annual reports prepared by ministers under whose authority the various labour inspection services are placed. Noting that a body at this level has been awaited by the social partners since its creation was announced in 1983, and that its establishment is regularly referred to by the Government in its reports, the Committee hopes that practical measures will soon be taken for this purpose and that the relevant information will be provided to the ILO forthwith.

The Government also refers to the current reflection on whether to set up a committee of experts responsible for issuing opinions in all appeals concerning the independence of decisions by officials and to ensure that their protection is effectively secured in the exercise of their duties. This committee would be responsible for addressing matters relating to the professional rules applicable to labour inspection. Emphasizing the value of the creation of such a body in order to ensure observance of *Article 6 of the Convention*, the Committee hopes that the Government will not fail to provide information on the development and results of the reflection carried out on this issue.

With reference to its previous comments, the Committee notes with interest the proportion of women in the staff of the labour inspectorate. However, it notes that, according to the Government, while the number of women is increasing among inspectors, this is not yet the case for managerial posts and that a multi-year plan to improve the access of women to higher managerial posts throughout the Ministry of Employment and Solidarity was approved by Order of the Minister of 7 March 2001.

The Committee is addressing a request directly to the Government on certain points.

Gabon (ratification: 1972)

The Committee notes the Government's report and the table on the overall staff of the labour administration. It also notes the information reporting difficulties in the application of the Convention related to the inadequacy of the material resources available to the labour inspectorate. It wishes to emphasize the need to provide information on the points raised in the comments of the supervisory bodies so that they can discharge their supervisory functions effectively. In this respect, noting with regret that, for the third consecutive time, the Government has not provided the information requested in its previous comments on *Articles 6, 7, 10, 11, 12, paragraph 1(a), 14, 16, 18, 20 and 21 of the Convention*, the Committee is bound to repeat them once again in a request addressed directly to the Government.

Guinea (ratification: 1959)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes the information contained in the Government's report. It also notes the transmission of the annual activities report of the regional inspectorate of N'Zérékoré (Guinée-Forestière) for 1998. It notes that, according to this report, the regional structures of the labour inspectorate have not received any operational budget since 1990. The sole means of transport available consisted of a motorcycle in poor condition and no expenses were paid for professional travel. The grievances described in this report are intended to obtain a means of transport, an operational budget and the renovation of the administrative premises of the labour inspectorate. The Committee notes in this respect that, according to the information provided by the Government under *Article 11 of the Convention*, a study of structural adjustment measures in the labour sector was undertaken with a view to the allocation of a portion of the resources created by the increase in the public budget as operating credits for administrative bodies responsible for labour matters. The Committee would be grateful if the Government would provide information on the conclusions of this study once they are available, but, as of now, it requests the Government to provide detailed information on the material situation of the inspection services in each regional and local labour inspection structure, to indicate the measures which have been taken or are envisaged for their improvement and to describe the manner in which labour inspectors and supervisors are reimbursed their travelling and incidental expenses necessary for the performance of their duties.

The Committee also reminds the Government that an annual inspection report on the matters set out in *Article 21(a) to (g)*, should be published and transmitted to the ILO within the time limits set out in *Article 20*. It wishes to stress the importance that it attaches to compliance with these provisions, the application of which enables it to assess the extent to which the Convention is applied. The publication of annual inspection reports is also intended to inform employers and workers and their organizations of the activities of the labour inspection services and to allow them to express their opinions in this connection, in a spirit of constructive cooperation. The Committee trusts that the Government will take the necessary measures rapidly, so that these reports will in future be published regularly and transmitted to the ILO.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Guinea-Bissau (ratification: 1977)

The Committee notes the Government's report and the information provided in reply to its previous comments. Noting the difficulties in the application of the Convention mentioned by the Government, it draws the Government's attention to the following points.

1. *Human and financial resources necessary for the operation of a system of labour inspection.* The Committee notes the rudimentary nature of the labour inspectorate, both from the point of view of human resources and material and financial resources. It notes that the General Labour Inspectorate lacks the most elementary facilities for its operation, such as electrical current, appropriately equipped premises and transport facilities. The lack of human and material resources of the inspection services is compounded, according to the Government, by the shortcomings of the general legislation respecting occupational safety and health. Noting that a draft Labour Code was submitted to the competent technical services of the ILO for examination in 1998, the Committee would be grateful if the Government would provide information on the action taken with regard to the draft text.

2. *ILO technical assistance and international cooperation.* The Committee is grateful to the Government for the statistics provided, despite the major difficulties referred to above, particularly concerning the staff and activities of the labour inspection services, and the information concerning the recent adoption of new conditions of service of the General Labour and Social Security Inspectorate. It reminds the Government that, where the economic situation of the country does not allow the adequate implementation of the Convention, recourse to international cooperation and ILO technical assistance may help in improving its application. The Government is requested to provide information on any measures taken in this respect and on the results achieved, as well as a copy of the new conditions of service of the General Labour and Social Security Inspectorate.

Honduras (ratification: 1983)

The Committee notes the Government's report and draws its attention to the following point.

Prohibition on labour inspectors having any direct or indirect interest in the undertakings under their supervision. Referring to its previous comments, the Committee notes once again that the Government provides no reply as to how effect is given to *Article 15(a) of the Convention* under which labour inspectors, subject to such exceptions made by national laws, shall be prohibited "from having any direct or indirect interest in the undertakings under their supervision". The Committee cannot emphasize too strongly the need to envisage such a prohibition on a legal basis to ensure that labour inspectors have the necessary impartiality and authority required by their functions. Referring to a previous report from the Government indicating that a relevant provision had been provided in a draft decree but was not adopted, the Committee requests the Government to take appropriate measures forthwith, with a view to introducing into legislation a provision to this effect, and would be grateful if it would keep the ILO informed of the matter.

The Committee is addressing a request directly to the Government on other matters.

India (ratification: 1949)

The Committee notes the Government's report and the information provided in reply to its previous comments. It also notes the comments made by the Hind Mazdoor Sabha (HMS) trade union on 17 May 2001, and the partial information provided by the Government on the points raised.

1. According to the HMS, certain state governments, including Maharashtra, have abolished labour inspectorates, which has resulted in a significant increase in violations of the legislation by employers, to the detriment of workers. In reply to the Committee's previous observation, in which it was requested to indicate the manner in which the right of inspectors is ensured, in accordance with *Article 12 of the Convention*, to enter workplaces without notice and without prior authorization, the Government refers to section 9 of the Factories Act and section 4 of the Dockworkers (Safety, Health and Welfare) Act, under which the powers of labour inspectors include most of those laid down in the Convention. However, the Committee notes that the above provisions do not

address the right of inspectors to enter workplaces freely. The Committee reminds the Government in this respect that, in accordance with *Article 12, paragraph 1(a)*, this right should be exercised freely and without previous notice in workplaces formally liable to the supervision of the labour inspectorate, under the sole condition that inspectors are in possession of proper credentials. In its 1985 General Survey on labour inspection, the Committee considered that "the unexpected nature of the inspection visit is the best guarantee of effective supervision" and that the inspector must be able to enter undertakings without warning the employer or his representative in advance, especially when it is to be feared that prior notice might result in the concealment of an infringement (paragraph 158). Noting the Government's statement that the case of the states in which it is alleged that labour inspection has been prohibited is under examination, the Committee hopes that this examination will be based on the above provision of the Convention. It therefore requests the Government to provide information on the results achieved and to indicate the measures which have been taken or are envisaged to ensure that the national legislation is supplemented by provisions giving effect to *Article 12, paragraph 1(a)*.

2. According to the above trade union, the provision of the Convention prescribing the obligation to promote collaboration between officials of the labour inspectorate and workers' organizations is not given effect. The Committee notes in this respect the information provided by the Government on the existence of various tripartite bodies for collaboration at the national level, including the Indian Labour Conference, the tripartite dock safety committees which function in every major port, the Dockworkers' Advisory Committee established under the Dockworkers (Regulation of Employment) Act and the meetings of the tripartite Safety Committee and the Mining Inspectorate. The Committee would be grateful if the Government would provide additional information specifically on the manner in which collaboration is promoted between labour inspectors and workers, and their organizations, in accordance with *Article 5(b)* of the Convention.

3. The above trade union finally raises the question of the publication and content of the annual report. In the first place, it alleges that this report does not contain detailed information on such matters as the staff of the labour inspection system, statistics of workplaces liable to inspection, inspection visits, violations and penalties imposed, and statistics of industrial accidents. The Committee notes that, according to the Government, detailed reports are provided on the labour inspection system, industrial accidents, etc. It refers in this respect to the annual report on the work of dockworkers 1999-2000 and the document entitled "Standard Reference Note DGFASLI Organization 2000", on the cover of which is indicated "for official use only". The Committee also notes the statistical tables of the results of inspections undertaken on the application of certain laws, particularly relating to wages in mines and railways, working hours, child labour and the minimum wage for the period between 1992 and 2000. It also notes the various tables reflecting the information available on the number of inspections and the sanctions imposed in 1998 in commercial and transport establishments, as well as the tables on the distribution of the staff of the labour inspectorate in 1997 and 1998; the statistics on the number of inspections by state and by type of inspection according to their frequency in 1997 and 1998; statistics of industrial injuries in factories and cases of occupational disease in 1997 and 1998; and finally, statistics on the sanctions imposed on cases of violation of the general legislation, provisions concerning women, children, registers and instructions, and safety and health for 1997 and 1998. The Committee,

however, recalls that the obligation to publish an annual inspection report, as set out in *Articles 20 and 21*, has the objective, particularly at the national level, of bringing to the knowledge of employers and workers and their organizations information concerning the activities and results of the inspection services in all workplaces liable to inspection with a view to enabling them to react and indicate, where appropriate, their opinions or make proposals with a view to improvements. The Committee hopes that the Government will not fail to take measures to ensure that an annual report of a general nature on the activities of the inspection services, containing information on the each of the subjects enumerated in *Article 21*, is published within the time limits prescribed in *Article 20*, and that a copy is transmitted to the ILO.

Malaysia (ratification: 1963)

The Committee notes the Government's brief report. It notes that there is no reply to its previous comments.

Referring to its previous observation, the Committee requests the Government to supply information on the effect of implementation of the new preventive approach to labour inspection through the use of the media and consultations with employers and workers on the application of labour legislation covered by the Convention.

The Government is also requested to supply information on the measures already requested by the Committee as to how effect is given in law and in practice to *Article 14 of the Convention* laying down that the labour inspection service shall be notified of industrial accidents and cases of occupational disease in such cases and in such manner as may be prescribed by national laws or regulations.

Noting that, despite the Government's affirmation that an annual inspection report is prepared regularly, to date none of these reports has been received by the ILO, the Committee would be grateful if the Government would take all appropriate measures to ensure in future that an annual inspection report containing information on the subjects listed in *Article 21* is published and communicated to the ILO within the time limits laid down in *Article 20*.

Niger (ratification: 1979)

The Committee notes the Government's report and the partial replies to its previous comments. It notes that the reports on the activities of the Directorate for the Promotion of Employment and Vocational Training of the Ministry of the Public Service, Labour and Employment do not contain information on the operation and activities of the labour inspectorate. The Committee notes that the two monthly activity reports covering the month of November 1996 and concerning the inspection offices in Arlit and Zinder only report a very limited number of inspections of workplaces.

The Committee notes the difficulties inherent in the economic and social situation in the country and, as a consequence, the low level of resources of the public labour administration in general, and the labour inspectorate in particular. Emphasizing the social function of labour inspection, the Committee recalls the possibility of having recourse to ILO technical assistance for the evaluation of the inspection system and the determination of the legislative, structural, human and material resources required to improve its effectiveness. Moreover, the necessary financing can be sought through international cooperation from potential donors. The Committee urges the Government to explore these channels, although not without first having compiled the available information on the situation of the labour inspectorate in terms of the needs which could be submitted for support when requesting the above assistance (applicable legislation, available staff and material resources, industrial and commercial activities, number of workplaces, numbers of workers employed in these workplaces). The Committee requests the Government to provide information on any practical measures taken to improve the inspection system and any steps which may have been taken to obtain the necessary assistance.

Pakistan (ratification: 1953)

Legislative amendments. With reference to its previous comments on the observations made in 1994 by All Pakistan Federation of Trade Unions of Pakistan (APFTU) especially with regard to the urgent need for a revision of a few laws which were no longer relevant, the Committee notes with interest the information contained in a presidential press release dated 30 April 2001, by virtue of which the amendment of a few legislative texts were adopted. The amendments were made to the following Acts: Occupational Accidents Act of 1923; Payment of Wages Act of 1936; Mines Maternity Benefits Act of 1941; Employees Social Security Ordinance of 1965; The Companies Profits Workers Participation Act of 1968; Workers Welfare Fund Ordinance of 1971; and Employees Old-Age Benefits Act of 1976. Recalling the Federation's (APFTU) view that it was equally urgent to review the Factories Act of 1934, the Committee would be grateful if the Government would transmit to the ILO copies of the new texts as well as information on the revision of the Factories Act.

Noting further that a new set of amendments is envisaged, the aim of which is to restructure labour legislation; strengthen the labour judiciary; review the minimum salary; and extend the coverage of labour legislation to agriculture, and other activities of the informal sector, the Committee would be grateful if the Government could continue to provide information on any developments in this field, and to communicate to the ILO a copy of any relevant text.

With reference to its previous comments, and based on the information contained in the aforementioned press release respecting the new legislative provisions, and on the Payment of Wages Act, which indicate that salaried workers whose salary is less than 3,000 rupees are entitled to seek remedy in a court of law to be paid delayed salaries and to dispute unauthorized salary deductions, the Committee would be grateful if the Government would provide precise information on the application of this law vis-à-vis workers employed in the brick kiln industry and undertakings whose workers are maintained in numbers lower than the threshold level specified in the Factories Act.

Labour inspection and inspection of child labour. Articles 7, 16, 17 and 18 of the Convention. The Committee notes with interest the measures taken to reinforce labour inspection so as to combat child labour efficiently, in collaboration with the International Programme on the Elimination of Child Labour (IPEC). It notes in particular the objectives, the national policy strategy, as well as the plan of action on the intensive training of labour officers, especially labour inspectors. The aim of such a measure is to strengthen the monitoring mechanism in the application of the law through adequate logistical means provided to the competent authorities, and the formulation of monthly reports on the level of application of the legal provisions on child labour. It notes that the Task Force set up to evaluate the situation of child labour has solicited views on the directions of work in each province, with respect to the different elements which could be part of a strategy to combat child labour, and that the provincial governments had set in place training programmes on labour inspectors focusing on government policy and legislation on child labour as well as a robust programme of the labour inspection services in this field. The Committee notes with interest the institutionalization of compulsory primary schooling by the governments of the Punjab, and the North West Frontier Province (NWFP).

Noting that the above national policy and action plan are carried out in collaboration with the social partners, and in cooperation with the various ministerial departments concerned with the problem of child labour and that they involve the undertaking of a number of analytical studies on specific sectors of activity, but equally divided by region, in view of the mobility of working children, the Committee would be grateful if the Government would provide information on the results of the above work, and the measures which have been taken or are envisaged to follow up on the recommendations which transpired. In this regard, the Committee notes that the study on child labour in the carpet industry should have been completed in September 2001.

With reference to its previous observations, the Committee would be grateful if the Government would supply precise information on the role played by labour jurisdictions in combating child labour, and to transmit to the ILO the conclusions which have been so far reached as a result of the adoption of the new measures.

Publication of the annual inspection report and its communication. Noting that the ILO has not received any annual report since the last report covering the year of 1995, the Committee hopes that the Government will ensure that the central inspection authority fulfil its obligation as specified under the Convention, which consists in publishing within the time lines established in *Article 20* of the Convention an annual inspection report containing information on each of the subjects enumerated under *Article 21*. The Committee requests the Government to also ensure that statistics on child labour be regularly included in the annual inspection report.

Paraguay (ratification: 1967)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee takes note of the Government's report received by the Office on 8 November 1999. It also notes the observations by the Latin American Confederation of Labour Inspectors of June 1999 alleging in particular the inadequacy of the number of inspectors and of inspection visits which are conducted mainly following complaints and not following a pre-established programme, as well as the absence of means of transport and non-reimbursement of expenses.
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> The Committee notes that, according to the statistics transmitted by the Government, the number of inspectors (73) and visits (1,005) in 1998 is insufficient if compared to the number of undertakings (30,000) that should be visited. These statistics show that each inspector carried out an average of 1.15 inspection monthly, that is a decrease of about 30 per cent in relation to 1996. The Government acknowledges that inspection services lack means of transport but that certain expenses are reimbursed.

The Committee takes note with interest of the Manual on Labour Inspectorate, approved by resolution No. 159 of 30 April 1998, relating in particular to the functions and powers of inspectors and to the inspection procedures; its annex reflects the text of the ILO Conventions on labour inspectorate, as well as the essential national relevant provisions. It also notes a document of September 1999 sent by the Government on the preparation of programmed visits. Noting however that the Latin-American Confederation of Labour Inspectors refers to the absence of a manual or guide for inspectors, the Committee asks the Government to indicate the measures contemplated to propagate the abovementioned manual among the inspectors.

The Committee hopes that the various initiatives taken by the Government will contribute to improve the activities of the Labour Inspectorate and that it will take the necessary measures to make available to the Inspectorate the resources needed to increase the number of inspectors and the frequency of inspection visits, including programmed visits. It requests the Government to provide information on progress made.

The Committee is also addressing a request directly to the Government on a number of other points.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Peru (ratification: 1960)

Requirement for the central inspection authority to publish and transmit to the ILO an annual inspection report. Several decades after ratification of this instrument no annual inspection report has yet been transmitted to the ILO. The Committee therefore draws the Government's attention once again to the essential nature of the reporting obligation incumbent on the central inspection authority under *Articles 20 and 21 of the Convention.* It accordingly urges the Government to take the necessary steps as soon as possible to ensure that the central authority is in a position to fulfil the obligation. The purpose of publishing an annual report of the kind provided for in these Articles of the Convention is, in particular, to inform at the national level the social partners of the labour inspectorate's activities and how effective they are, so that they may express any relevant views. The transmission of such reports to the ILO constitutes, at the international level, an indispensable basis for the supervisory bodies to monitor application of the Convention as part of a constructive dialogue with the Government.

Portugal (ratification: 1962)

Referring to its previous comments in particular concerning the observations made by the Confederation of Portuguese Industry (CIP), the Committee notes the Government's report and the new observations from the same organization and those formulated by the General Confederation of Portuguese Workers (CGTP). The Committee has also noted that the Government has supplied information on the subjects raised by both organizations, and proposes to examine the content of such documents during its forthcoming session in 2002.

Qatar (ratification: 1976)

The Committee notes the Government's detailed report. It notes the replies to its previous comments and the annual inspection report for 2000.

Increase in the number of inspection staff. The Committee notes with interest that the increase in the number of labour inspectors has made it possible to overcome certain difficulties in the application of the Convention, particularly by promoting the activity of visits to establishments.

Safety and health at work of non-Arabic-speaking workers. The Committee also notes with interest that labour inspectors have been provided with training focused on safety and health at work and the relevant Conventions and that this training has enabled them to develop information and advisory activities for non-Arabic-speaking employers and workers with a view to eliminating the risk of industrial accidents caused by ignorance of the Arabic language.

The Committee is addressing a request directly to the Government on certain points.

Saudi Arabia (ratification: 1978)

The Committee notes the Government's report and the information provided in reply to its previous comments. It also notes the annual report on the activities of the labour inspectorate for 1999-2000.

1. *Statistics on cases of occupational disease.* With reference to its previous observation and the Government's previous indication that the compilation of statistics of cases of occupational disease comes up against the dual difficulty of the migratory nature of the active population and the fact that the symptoms of occupational diseases generally appear after a period of time, the Committee notes that the measures taken by the general authority competent in the field of social security, in relation to the authorities of the countries of origin of workers to obtain relevant information, have not been effective. However, it notes that a classification of occupational diseases has been established and approved by Decision No. 877 of the Council of Ministers of 21 Dhul Qida 1389 in compliance with the guidance provided by international labour Conventions and the labour legislation applicable in neighbouring Arab countries. According to the information contained in the annual report which was transmitted, the labour inspectorate is responsible for supervising the application of provisions relating to various matters, including occupational diseases, to seek out the causes, develop preventive measures and initiate studies, particularly on exposure to occupational risks. The Committee hopes that the Government will continue to make efforts to cooperate with countries in the region which are encountering the same difficulties in compiling information on cases of occupational disease with a view to envisaging the development of an appropriate prevention policy concerning the exercise of occupational activities involving risk. The Government is also requested in any case to provide information on the application in practice of the decision concerning the classification of occupational diseases referred to above.

2. *Labour inspection and child labour.* In response to its general observation of 1999, the Committee notes the Government's statement that child labour does not exist in the country, but that it is nevertheless envisaged to request labour inspectors to give priority to measures to combat child labour and that relevant information will be included in the annual report prepared by the central inspection authority. Noting in this respect that the labour inspectorate is responsible, among other matters, for supervising the application of legal provisions concerning the employment of young persons, and

recalling that child labour may take hidden forms, outside legally registered workplaces that are liable to inspection, the Committee would be grateful if the Government would indicate in its next report the legal powers and means of action available to labour inspectors, on the one hand, to exercise effective supervision in this respect and, on the other hand, to submit to the competent authority proposals for the improvement of the legislation *(Article 3, paragraph 1(c), of the Convention).*

The Committee is addressing a request directly to the Government.

Sierra Leone (ratification: 1961)

The Committee notes that the Government has not submitted a report under article 22 of the Constitution and that it has not replied to its earlier comments. It trusts that, with the return of peace and the normal operation of the country's institutions, it will soon be in a position to do so. While reminding the Government that the ILO's regional bodies can be of technical assistance in the search for appropriate solutions with a view to applying the Convention, the Committee asks the Government to provide all available information on the manner in which effect is given to its provisions in accordance with the requirements of the report form adopted by the Governing Body of the ILO.

Sri Lanka (ratification: 1956)

The Committee notes the Government's detailed report containing information on the Committee's previous comments in regard to the observations of the Government Service Labour Officers Association, as well as the attached documentation comprising legislation, inspection statistics and documents on the current situation and development prospects of the labour inspection system. It also notes the observations made by the Lanka Jathika Estate Workers' Union in a letter dated 17 May 2001 on child labour, in particular in the rural industries sector and plantations and the recruitment of inspectors with special responsibility for checking the application of legal provisions on child labour. The Union regrets that the Government apparently did not react to its proposal to a tripartite approach to the matter but referred only to the cooperation established between the Department of Probation and Childcare and the Ministry of Labour on the implementation of the Employment of Women, Young Persons and Children Act (WYPC Act).

1. *Labour inspection and child labour.* The Committee notes the information supplied by the Government on action taken with a view to improving the application of legal provisions on child labour. The Government recalls in particular the establishment of the National Child Protection Authority (NCPA), the appointment of a Presidential Task Force for the elimination of child labour, the adoption of the children's charter and the establishment of provincial monitoring committees to supervise its implementation. The Committee notes in particular with interest that certain legislation has been amended subsequent to ratification of the Minimum Age Convention, 1973 (No. 138), with a view to eliminating child labour and the abuses suffered by children, in particular by raising the minimum age for employment from 10 to 14 years; making education compulsory until the age of 14; and imposing new penal sanctions for perpetrators of various forms of child abuse such as prostitution, pornography, trafficking of children and the use of children for drug trafficking. The Government indicates in addition that the Council of

Ministers has approved a proposal to increase the amount of fines applicable to violations of legislation on the employment of women, young persons and children up to 10,000 rupees in the context of amending the Employment of Women, Young Persons and Children Act (WYPC Act). The Committee notes, however, that according to the Government, complaints concerning child labour made between 1996 and 2000 which were investigated by the labour inspection service were mostly unfounded, particularly in that the children concerned were over 14 years old or because the offenders could not be traced and that fines were imposed in eight cases. Among the actions taken to delimit the problems raised by child labour, the Government indicates the organization of training programmes for governmental officers, for judges and magistrates concerned and for members of non-governmental organizations in the context of the International Programme on the Elimination of Child Labour (IPEC). Awareness programmes are being carried out, furthermore, using methods such as seminars, television broadcasts and newspaper articles.

The Committee notes that the abovementioned recommendations of specialists from the ILO multidisciplinary regional team have been examined and accepted to a large extent by the Government and that some of them have already been put into effect. It notes, furthermore, that the Government has expressed the hope of receiving ILO assistance in order to achieve the desired objectives noted as well as in establishing a procedure for collection of reliable statistics for the preparation of annual inspection reports. The Committee requests the Government to supply information on changes in the situation and operation of the labour inspection system and to communicate any views expressed by the organizations of employers and workers in that regard.

2. *Action with a view to improving the organization and operation of the inspection system.* The Committee notes the diagnostic study conducted by labour relations specialists of the New Delhi ILO multidisciplinary team on the labour inspection system and the recommendations they made on measures to be taken: creation of conditions favourable for improved social dialogue; a functional restructuring of the labour department with, in particular, the creation of new provincial offices; improvement in the frequency of submission of periodic reports; motivation of the inspection staff through training activities and an appropriate career development policy; review of the design of inspection forms; development of a tripartite preventive approach to labour inspection; and the strengthening of labour inspection within the export processing zones (EPZs) with a view to improving living conditions of workers and the education of employers and managers of enterprises in those zones.

On the question of recruiting 200 new field officers responsible for inspecting Employment Provident Fund Act, which elicited criticism from the Lanka Jathika estate workers' union, the ILO specialists regretted the lack of consultations between the different functions and levels of the inspection system and noted that this recruitment had led to considerable tensions in all the stations visited.

The specialists consider that the lack of official inspection service transport, in a country where there is often no public transport, and the inadequate reimbursement of travel costs are obstacles to the operation of the labour inspection service in whole regions. The experts advocated the development of a transport management concept and policy for all field services, focusing on the programmed use and sharing of available vehicles for inspection purposes.

3. *Proportion of women in the labour inspection service and specific supplementary duties.* The Committee notes furthermore with interest the table showing labour inspection staff disaggregated by sex and by grade and the information that the women's and children's affairs division functions under the supervision of a female commissioner of labour who has two assistant commissioners, of whom one is female, and two senior female labour officers.

The Committee is addressing a request concerning other points directly to the Government.

Sudan (ratification: 1970)

The Committee notes the Government's brief report.

The Committee also notes the Government's commitment to giving high priority to the issue of child labour. Referring to the information concerning the establishment in the Ministry of Labour of a directorate responsible for working women and children, the Committee would be grateful if the Government would supply a copy of the texts relating to the composition and functions of this directorate as well as information on the practical and legislative measures taken to give labour inspectors the means to ensure effective supervision of the legal provisions concerning working conditions of women and children and the protection of women and children at work.

The Committee notes that the Government's report has not provided the specific information requested in previous comments and hopes that detailed information on the following points will be supplied for examination at its next session.

1. *Reporting obligations.* The Committee hopes that forthcoming reports on the application of the Convention will contain information on any changes and developments in the fields covered. This information should relate particularly to new legislative and regulatory provisions concerning the organization of the labour inspection system as well as those whose application falls under labour inspectors' supervision; on numbers of inspection staff and their geographical distribution; on the material means and transport facilities made available for them to carry out their numerous visits; on the status and working conditions of inspectors; on frequency of inspection visits and the powers with which labour inspectors are invested in relation to the development of industrial and commercial activities and the new occupational hazards they involve.

2. *Annual labour inspection reports.* The annual general labour reports that should be published and communicated to the ILO by the central authorities in compliance with *Article 20 of the Convention* and which contain information on the matters listed in *Article 21* should provide an overview at the national level of the situation and effectiveness of the resources used and enable them to be improved. The purpose of publishing these reports is particularly to make them accessible to employers, workers and their organizations and to elicit their views in a constructive manner. Noting that, according to the Government, legislation is undergoing revision, the Committee would be grateful if the Government would take the necessary measures to ensure that a provision giving effect to the aforementioned Articles of the Convention be adopted and to keep the ILO informed of progress made.

The Committee is addressing a request directly to the Government on other points.

Swaziland (ratification: 1981)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> Further to its previous comments in which it requested the Government to take measures to give effect to *Article 3(2), of the Convention*, the Committee notes with interest the indication concerning adoption of the Industrial Relations Act No. 1 of 2000 to establish a new industrial dispute resolution mechanism which will be provided by an independent body so that in future labour inspectors will be able to concentrate on their primary duties. The Committee would be grateful if the Government would supply a copy of the full text of this Act to enable it to ascertain the impact on the application of *Article 3(2)*.
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> The Committee notes with interest the detailed information contained in the 1998 inspection report which includes comparative statistical tables on a number of subjects covering the previous four years and providing indications on the frequency of meetings and the subjects discussed by the advisory boards in respect of the matters covered by the Convention. The Committee notes, however, with concern that the Pneumoconiosis Medical Board has found difficulty in operating because the asbestostotic patients concerned are no longer employed and cannot afford to pay the travel costs to attend the Board or to pay for the X-rays needed for re-examinations and therefore die sooner. The Committee expresses the hope that the Government will implement appropriate measures to entrust labour inspectors with the task of identifying the persons concerned and that appropriate solutions will be found to alleviate their poverty and give them the care required by their state of health, if necessary resorting to technical cooperation and international funding with a view to developing social security measures for this purpose.
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> The Committee is addressing a request on other points directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Uganda (ratification: 1963)

The Committee notes with regret that the Government's report has not been received. With reference to its previous comments, the Committee recalls the deliberations which took place within the Committee on the Application of Standards of the International Labour Conference in June 2001 during which the Government recognized the relevance of the points raised, and provided clarifications on the economic reasons for a deteriorating labour inspection system since the decentralization of services. The Government has given assurances to the Conference Committee to the effect that the situation would be closely examined, taking due account of all viewpoints, with all the partners concerned. It further indicated that the process would take time, and would require technical assistance. The Conference Committee expressed the hope that the Government, through technical cooperation, will be able to find solutions. Recalling each of the points raised in its previous comments, the Conference Committee also expressed the hope that, with the assistance of international collaboration, the Government will quickly take the necessary measures, as requested by the Committee. The Committee is therefore obliged to reiterate its previous comments on the following points:

> 1. *Socio-economic situation and labour inspection.* The Committee notes with concern the socio-economic impact of the epidemic of HIV infection. It notes the educational activities carried out by the Government and the health measures taken, but

notes that the information provided by the Government and the conclusions of a report by a joint ILO/UNDP/EAMAT mission undertaken in 1995 on labour administration indicate that the structures of the labour inspection system are in a critical situation. The decentralization of the organization and the management of services and personnel of the labour inspectorate is resulting in practice in serious shortcomings in supervising the application of legal provisions for which the labour inspectorate is responsible in an environment which is characterized by the very rapid growth in the number of national and foreign private industrial enterprises. Noting that the provisions of the Convention are not applied, the Committee wishes to draw the Government's attention to the importance, particularly in such a difficult economic, health and social situation, of ensuring the best possible protection for workers.

2. *Supervision and control of the labour inspectorate by a central authority (Articles 4, 5, 6 and 10 of the Convention); annual inspection report (Articles 20 and 21).* The Committee notes that the power conferred since 1994 on district authorities to decide whether to establish an inspection structure to recruit and manage labour inspectors is in contradiction with the objective of the Convention, which is to ensure a coordinated and effective labour inspection system throughout the national territory under the supervision and control of a central authority. However, the disparities in the status and conditions of service of labour inspectors operating in the offices established in 21 of the 45 districts in no way permits the establishment of such a system, and the precariousness of inspectors is incompatible with the requirement of authority and impartiality which are indispensable in the relations that inspectors should maintain with employers and workers. The Committee also notes that the periodic inspection reports provided to the Ministry of Labour by a small number of district offices cannot provide the latter with the means of making an overall assessment of the level of application of labour legislation in workplaces liable to inspection and are not adequate to serve as a basis for the preparation of an annual report, as required by *Article 20*. The Committee reminds the Government that, under the terms of *Article 2, paragraph 1*, of the Convention, the system of labour inspection shall apply to all workplaces in respect of which legal provisions relating to conditions of work and the protection of workers while engaged in their work are enforceable by labour inspectors, and that the annual report, the contents of which are set out in *Article 21(a) to (g)* has the objective of providing a regular assessment of the situation with a view to determining the action to be taken for its improvement. The Committee also invites the Government in this respect to refer to paragraph 273 et seq. of its 1985 General Survey on the value at both the national and international levels of preparing, publishing and forwarding such a report to the ILO. It hopes that the Government will commence without delay a process of reflection at the local, regional and national levels on the manner in which the Convention should be applied and that it will associate in this process the social partners, ministerial departments and public and private bodies concerned. It would be grateful if the Government would provide information regularly on the action envisaged to establish a labour inspection system placed under the supervision and control of a central authority and involving cooperation and collaboration with the social partners and the above institutions.

3. *Material and financial resources of the labour inspectorate (Articles 10, 11 and 16).* The Committee notes the Government's repeated statements concerning the crucial lack of means of transport and transport facilities and its consequences on workplace inspection. Furthermore, according to the report of the ILO/UNDP/EAMAT mission, the premises serving as offices for labour inspectors in some districts give rise to problems of accessibility for their users and are not equipped to meet the needs of the service. According to the Government, even before the decentralization of inspection services, difficulties were experienced in the application of the requirements set out in *Article 11* in view of the same budgetary constraints on personnel and means of transport in particular. The Committee notes that the inadequacy of the resources of the inspection services encourages a general

laxity by employers with regard to their legal obligations respecting occupational safety and health and other conditions of work. The Committee wishes to emphasize once again, as it did in paragraph 214 of its 1985 General Survey on labour inspection, the economic and social value of labour inspection and the social cost of reducing its effectiveness. It trusts that measures will be taken, including having recourse to international cooperation, to ensure that the proportion of the national budget allocated to labour inspection is determined as a function of the priority nature of the objectives which it should be assigned in accordance with the Convention.

United Kingdom (ratification: 1949)

The Committee notes the Government's report and the documentation showing in particular a widening of the scope of labour inspection activities. It also notes the information provided in response to its previous comments, in particular its general observation of 1999 concerning the activity of the inspection services in connection with combating child labour.

1. *Widening the scope of labour inspection activities.* Noting with interest the annual Department of Trade and Industry (DTI) report for 1999-2000 concerning monitoring of the 1999 regulations establishing for the first time a national minimum wage, the Committee hopes that, following the wishes previously expressed by the Trades Union Congress (TUC), legal provisions on working conditions will also be adopted in other fields and relevant information on monitoring their implementation will be communicated in an annual report, as provided for by *Articles 20 and 21*. In this regard, the Committee would point out that the annual inspection report concerning health and safety at work has not been communicated by the prescribed deadline and it would be grateful if the Government would adopt measures to ensure regular transmission of such a report.

2. *Child labour.* Noting that a permit-based system has been established with regard to the employment of children below the compulsory school-leaving age, that the employment of children in factories and on construction sites is prohibited and that there are additional specific regulations concerning the risks of exposure to ionizing radiations and hazardous substances in particular, the Committee would be grateful if the Government would indicate what steps have been taken to ensure that labour inspectors and other officials can effectively seek out and take action against hidden cases of illegal child labour

Noting that in 2000 the Health and Safety Executive (HSE) commissioned research into the issue of child labour across England, Scotland and Wales and that the study's interim conclusions recommended that the structure of the system should be maintained, with the inclusion of certain improvements in practice, the Committee would be grateful if the Government would provide, as it proposes, a copy of the final conclusions of the study when it is published and report on the measures taken following the recommendations resulting therefrom.

Uruguay (ratification: 1973)

The Committee notes the Government's reports, the comments by trade unions on the application of the Convention and the information supplied by the Government on the points raised. As it did in its observation of 2000 on the Labour Inspection

(Agriculture) Convention, 1969 (No. 129), the Committee draws the Government's attention to the inconsistencies between national legislation and practice and the requirements of the Convention, pointed out in the comments of 29 December 1999 of the Federation of Workers' Unions – National Workers Convention (PIT-CNT) and the observation of the Association of Labour Inspectors of Uruguay (AITU) sent to the ILO by the Latin American Confederation of Labour Inspectors (CIIT) on 26 May 2000. The Government is asked to take the necessary steps to remove these inconsistencies and to provide information on the measures taken and the results obtained.

1. *Articles 3 and 6 of the Convention (Status and conditions of service of labour inspectors).* Under Act No. 16 226 of 29 October 1991, labour inspectors may, in parallel to their main occupation, carry out another unrelated gainful activity provided that they first inform the institution to which they belong and refrain from intervening in their capacity as labour inspectors in any matter which is linked directly or indirectly to their private activity. The Committee notes that the provisions of the abovementioned Act which repeal section 495 of Act No. 15 803 of 10 November 1987, which specifically prohibited inspectors, in line with the Convention, from carrying out other professional activities and which authorize inspectors to devote to other gainful activities the time and energy they need to perform properly the numerous and complex duties of labour inspection. The Committee is of the view that such provisions are bound to impair the performance of these duties. Noting that the Government sees this legislative measure as a means of enabling inspectors to increase their earnings, the Committee wishes to stress that oversight of an inspector by some other employer is contrary to *Article 6* of the Convention which requires inspection staff to have the status and conditions which make them independent of improper external influences. According to the Association of Labour Inspectors of Uruguay (AITU), the wage differential between labour inspectors and inspectors in other agencies of the administration such as tax inspectors makes inspection staff more vulnerable. The Committee wishes to recall, as it did in its observation under Convention No. 129, that the authority and impartiality that labour inspectors need in their relations with employers and workers can be ensured only if the statutory and material conditions specified in *Article 6* are met. The Committee is therefore bound to urge the Government to take the necessary steps to ensure that, in accordance with this provision, inspection staff enjoy a status and conditions of service such that they are assured of stability of employment and are independent of changes of government and of improper external influences.

2. *Size of inspection staff and definition of priorities.* In response to the comments made by the abovementioned trade unions observing the deterioration of the labour inspection system due not only to the reasons given but also to inadequacy of numbers and of means at their disposal, the Government indicates that it has taken measures to strengthen the labour inspectorate, such as the hiring of interns as prevention agents and the holding of competitive examinations, in order to fill vacancies in the inspectorate, and to create new posts. The Committee, nonetheless, notes that the Government does not give its views on the point made by the PIT-CNT on efforts to make the labour inspectorate more effective were concentrated on the construction sector to the detriment of other sectors and particularly the meat-processing sector which also requires attention, particularly in the area of occupational health and safety. The Committee further notes that the statistics supplied by the Government with its report for the period ending June 2000, relating to the actions undertaken by the labour inspectorate, cover a population of

85,651 workers as opposed to 140,630 in 1998. This reduction in numbers would appear to confirm that the size of the inspection staff is inadequate to cope with needs and to call for urgent measures to protect as many as possible of the workers employed in establishments subject to supervision, by the labour inspectorate. The Committee would be grateful if the Government would indicate the number of establishments liable to such supervision and the current number and geographical distribution of the labour inspectors who cover these establishments.

3. *Preparation, publication and transmission to the ILO of an annual inspection report.* The Committee notes once again that no annual inspection report has been transmitted to the ILO in the form and content prescribed by *Articles 20 and 21* of the Convention, respectively. It can but urge the Government to take steps to endow the central inspection authority with the means to fulfil the fundamental obligation to prepare and publish such a report, the objectives and usefulness at the national and international level of such an obligation being described and enlarged on in paragraphs 272 et seq. of its General Survey on labour inspection of 1985. The Committee trusts that the Government will not fail to refer to the above survey, and hopes that it will shortly be in a position to indicate that an annual inspection report is soon to be published, a copy of which is to be duly transmitted to the ILO.

The Committee is addressing a request directly to the Government concerning other matters.

Venezuela (ratification: 1967)

The Committee notes the Government's report and the enclosed statistical information and tables.

Stability of employment of labour inspectors (Article 6 of the Convention). With reference to its previous comments in which it noted that the discretionary dismissal of staff allowed by Presidential Decree No. 1367 of 12 June 1996 is contrary to the principle laid down in the Convention that inspection staff are to have independence and stability of employment, the Committee observes that the Government makes no mention in its report of any measures to bring the legislation into conformity with the Convention on this point. It therefore asks the Government once again to provide information on the measures taken for that purpose.

The Committee is addressing a request directly to the Government on the application of other Articles of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Angola, Antigua and Barbuda, Australia, Bahrain, Barbados, Belize, Bolivia, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, Colombia, Costa Rica, Côte d'Ivoire, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, France, Gabon, Greece, Grenada, Guinea-Bissau, Haiti, Honduras, Iraq, Ireland, Israel, Italy, New Zealand, Nigeria, Paraguay, Peru, Qatar, Saint Vincent and the Grenadines, Sao Tome and Principe, Saudi Arabia, Solomon Islands, Spain, Sri Lanka, Sudan, Swaziland, Switzerland, United Republic of Tanzania* (Tanganyika), *Tunisia, Uruguay, Venezuela.*

Information supplied by *Jordan, Netherlands, Norway* and the *United Arab Emirates* in answer to a direct request has been noted by the Committee.

Convention No. 87: Freedom of Association and Protection of the Right to Organize, 1948

Algeria (ratification: 1962)

The Committee notes the information contained in the Government's report, and the record of the meeting between the Ministry of Labour and Social Security and the Autonomous National Union of Public Administration Personnel (SNAPAP) supplied by the Government. The Committee observes, however, that once again this year the Government's report contains no replies to its previous comments.

It recalls that its previous comments addressed the following points.

Article 3 of the Convention. Right of organizations to organize their activities and formulate their programmes without any interference from the public authorities. The Committee noted previously that section 1, read together with sections 3, 4 and 5 of Decree No. 92-03 of 30 September 1992, defines as subversive acts offences directed, in particular, against the stability and normal functioning of institutions, through any action taken with the intention: (1) of obstructing the operation of establishments providing public service; or (2) of impeding traffic or freedom of movement in public places or highways, under penalty of severe sanctions including up to 20 years' imprisonment. The Committee therefore again requests the Government to take steps through legislation or regulation to ensure that none of these provisions may be applied against workers peacefully exercising their right to strike. The Government is asked to report on any instances of these provisions being applied where the right to strike has been exercised.

With regard to section 43 of Legislative Decree No. 90-02 of 6 February 1990, the Committee noted previously that this provision bans strikes not only in essential services the interruption of which would endanger the life, personal safety or health of the population, which the Committee has always considered admissible, but also where the effect of the strike is likely to engender an acute economic crisis. Furthermore, section 48 authorizes the minister or the competent authority, where the strike persists and after the failure of mediation, to refer, after consultation of the employer and the workers' representatives, a collective dispute to the arbitration commission. The Committee wishes to recall, however, that referral to arbitration in order to end a collective dispute should be allowed only if both parties so request and/or only in the event of a strike in essential services in the strict sense of the term. Consequently, the Committee again urges the Government to amend its legislation along the lines indicated above so as to guarantee fully the right of workers' organizations to organize their activities and formulate their programmes without interference from the public authorities, in accordance with *Article 3* of the Convention.

Argentina (ratification: 1960)

The Committee notes the observations made by the Congress of Argentinian Workers (CTA) on the application of the Convention and requests the Government to provide its comments in this respect.

The Committee notes that, at the request of the Government, a technical assistance mission visited the country in May 2001 to provide guidance to the Mixed Tripartite Commission established by the Government to analyse the observations made by this Committee on the application of the Convention. Following this mission, measures were adopted which give effect to some of the Committee's previous comments.

In this respect, the Committee notes with satisfaction that, in accordance with the requests made by the Committee for many years, the National Executive Authority issued Decree No. 757/2001 providing that trade union associations which have merely been registered are entitled to defend and represent the individual interests of their members before the State, employers and the Sub-Secretariat of Labour Relations. It also notes with interest that the Federal Public Revenue Administration issued joint resolution No. 103/2001 and general resolution No. 1027 establishing that the activities and assets of trade union associations, which have been registered for the exercise of the rights deriving from sections 5 and 23 of the Act respecting trade union associations, benefit from the same tax status as non-profit organizations. The Committee requests the Government to indicate whether, under the terms of this joint resolution, associations which are merely registered are exempt from the payment of taxes and duties, as provided in section 39 of Act No. 23551 respecting trade union associations.

The Committee also notes with interest that the Executive Authority has prepared draft legislation to amend section 28 of Act No. 23551 with regard to the size of the membership an association is required to have in order to contest the trade union status of another trade union and to repeal section 21 of Decree No. 467/88, which stipulates that the association must have a membership of at least 10 per cent higher than the union with current trade union status.

The Committee will address all of the matters that it raised in its previous observation at its next session during the regular examination of the application of the Convention, in the light of the information provided by the Government in its next report.

Austria (ratification: 1950)

The Committee notes the information provided in the Government's reports.

Article 3 of the Convention. Right of workers' organizations to elect their representatives in full freedom. The Committee has been commenting for a number of years on the need to amend the legislation to enable foreign workers to be eligible for election to works councils. The Committee notes the Government's statement in its most recent report that, following discussions with the social partners, a draft amendment had been prepared extending to foreign workers the right to stand for election to the organs of the representative workers' organizations. The draft was sent to an expert committee, which concluded its examination in March 1999. In the light of the experts' comments, the draft was amended so that in the effect the right of eligibility would be extended to foreign workers from countries outside the European Economic Area (EEA) possessing a certificate of exemption under the Employment of Foreigners Act. However, the Government states that, since the employers have rejected the draft amendment of the Works Constitution Act in its entirety, it is not able to foresee when the provision extending the eligibility of foreign workers will be adopted. Noting that the process of amending the legislation to enable foreign workers to be eligible for election to works councils appears to have reached a standstill, the Committee asks the Government to take measures to overcome the deadlock and to consider amending the provision at issue separately from the rest of the Works Constitution Act. The Committee once again urges the Government to indicate in its next report any measures taken in this regard. It also requests that the Government provide further information with respect to the requirements for obtaining a certificate of exemption under the Employment of Foreigners Act.

Bangladesh (ratification: 1972)

The Committee takes note of the Government's report.

The Committee notes with regret that no additional information has been provided and that despite its numerous requests, the legislation remains unchanged.

The Committee recalls that its previous comments concerned the following serious discrepancies between the national legislation and the provisions of the Convention.

Managerial and administrative staff and other exclusions from the Industrial Relations Ordinance (IRO)

In its previous comments, the Committee had noted that persons carrying out managerial or administrative functions were excluded from the definition of the term "worker" and thus denied the right of association set out in section 3(a) of the Industrial Relations Ordinance, 1969 (IRO). The Committee notes the Government's indication in its latest report that managerial and administrative staff come within the definition of "employer" under section 2(viii) of the IRO and in that capacity they can form their association of employers under section 3(b) of the IRO.

The Committee recalls that restrictions on the right to organize for managerial staff may be permitted in order to prevent interference in trade union activities provided that the persons concerned have the right to form their own organizations to defend their interests (see General Survey on freedom of association and collective bargaining, 1994, paragraph 87). The Committee considers however that defining such workers as employers for the purpose of forming associations does not respond to their needs to defend their interests as employees. It therefore requests that the Government indicate the measures taken or envisaged to ensure that managerial and administrative personnel may organize to defend their interests as employees and provide any available information on the number and size of associations formed by them.

The Committee also recalls that the workers of the Security Printing Press are not covered by the IRO and asks the Government to indicate the measures taken or envisaged to ensure that these workers have the right to establish and join organizations of their own choosing to defend their interests.

Restrictions regarding membership in trade unions and election of union officers

For many years, the Committee had noted that section 7A(1)(b) of the IRO prevents persons who are not current or former employees of an establishment or group of establishments during the previous year from becoming members or officers of a trade union in an establishment or group of establishments. It notes with regret that the Government does not consider that this provision needs to be amended. The Committee wishes to emphasize that under *Article 2 of the Convention*, all workers shall have the right to organize and that this right should not be subjected to a required period of employment.

The Committee had further noted that section 3 of Act No. 22, 1990, provided that a worker dismissed for misconduct was not entitled to become an officer of a trade union. The Committee recalls that provisions of this type infringe the organization's right to elect representatives in full freedom by preventing qualified persons from carrying out union duties or by depriving unions of the benefit of the experience of certain officers when they are unable to provide enough qualified persons from among their own ranks. When national legislation imposes conditions of this kind on all trade union leaders, there is also a real risk of interference by the employer through the dismissal of trade union officers, which deprives them of their trade union office (see 1994 General Survey, op. cit., paragraph 117).

The Committee therefore once again requests the Government to repeal sections 3 and 7A(1)(b) so that workers may fully enjoy the right to organize and so that workers' organizations may elect their officers freely in conformity with *Article 3* of the Convention.

Restrictions on activities of public servants' associations

In its previous comments, the Committee recalled that the Government Servants (Conduct) Rules, 1979, restricted the right of public servants to issue publications. The Committee noted that the permitted subject matters of publications by public servants were extremely limited and did not include basic trade union issues, and as such did not allow for a free flow of information, opinions and ideas. The Committee once again recalls that the measures which impose prior restraint on the subject matter of trade union publications are contrary to the right of workers' organizations to organize their administration and activities and to formulate their programmes without interference from public authorities, and requests once again the Government to take measures to amend the Government Servants (Conduct) Rules in this respect.

Excessive external supervision of the internal affairs of trade unions

The Committee recalls that under Rule 10 of the Industrial Relation Rules 1977, the Registrar of Trade Unions has the power to enter trade union offices, inspect documents, etc., and that this authority is not subject to judicial review.

The Committee notes the Government's statement in its latest report to the effect that the Registrar may enter the office of a registered trade union in order to see whether the laws, rules or provisions of its constitution are being implemented or not. The Government states in particular that the Registrar receives complaints from union members alleging misappropriation of union funds and many irregularities that are allegedly committed by union officers. According to the Government, the Registrar must be able to enter a trade union office with reasonable cause to see whether the complaints filed are founded on facts. The Government adds that the Registrar never supervises the activities of a trade union and that trade unions are governed by their constitutions and the laws of the country.

The Committee recalls in this respect that the right of workers' and employers' organizations to organize their administration without interference by the public authorities includes in particular autonomy and financial independence and the protection of the assets and property of these organizations (see 1994 General Survey, op. cit., paragraph 124). There is no violation of the Convention if such verification is limited to exceptional cases, for example in order to investigate a complaint, or if there have been allegations of embezzlement. Both the substance and the procedure of such verifications should however always be subject to review by the competent judicial authority affording every guarantee of impartiality and objectivity (ibid., paragraph 125).

The Committee therefore once again requests that the Government take the necessary measures to amend these rules so as to ensure that such broad authority of the Registrar may be subject to judicial review.

Registration requirement

The Committee recalls its previous comments regarding sections 7(2) and 10(1)(g) of the IRO which impose a minimum membership requirement of 30 per cent of the total number of workers employed in the establishment or group of establishments for initial and continued union registration.

The Committee notes once again the Government's indication that this registration requirement was mainly adopted with an objective of reducing the mushroom growth of trade unions and unwieldy multiplicity of unions.

The Committee considers however that such a requirement severely restricts the right of workers to form organizations of their own choosing. It suggests rather that the Government give consideration to granting certain preferential status for collective bargaining purposes to the most representative trade unions as a way of reducing union fragmentation and multiplicity.

It must once again request that the Government amend these provisions so as to ensure that workers may form and join organizations of their own choosing in accordance with *Article 2* of the Convention.

Right to organize and to bargain collectively in export processing zones (EPZs)

The Committee notes the information provided by the Government to the effect that the IRO and other labour laws will be implemented in EPZs from 2004 and as a result the workers in EPZs will be able to enjoy the legal rights to organize and bargain collectively.

Recalling once again that workers in EPZs should be guaranteed the same rights under the Convention as all other workers, the Committee requests that the Government transmit a copy of the draft legislation ensuring that EPZs will be covered by the IRO and other labour laws and keep it informed of any progress made in this regard.

Restrictions on the right to strike

The Committee notes with regret that no progress has been made in amending the various dispositions of the IRO concerning industrial action. The Committee recalls that its previous comments concerned the following discrepancies between the legislation and *Article 3* of the Convention: (i) the necessity for three-quarters of the members of a workers' organization to consent to a strike (section 28); (ii) the possibility of prohibiting strikes lasting more than 30 days (section 32(2)) and of prohibiting a strike at any time if it is considered prejudicial to the national interest (section 32(4)) or involves a public utility service (section 33(1)); and (iii) the nature of penalties that may be imposed in respect of participation in unlawful industrial action (sections 57 and 59), including imprisonment.

As concerns the provisions setting forth sanctions for illegal strike action, including imprisonment, the Committee notes the Government's indication that these provisions are aimed at ensuring that no illegal activities are conducted either by workers or by employers. The Committee emphasizes however that the application of disproportionate penal sanctions does not favour the development of harmonious and stable industrial relations; if measures of imprisonment are to be imposed at all they should be justified by the seriousness of the offences committed (see 1994 General Survey, paragraph 177).

The Committee once again requests that the Government indicate the measures taken or envisaged to amend the legislation to ensure that the abovementioned sections concerning industrial action are brought into line with the provisions of the Convention, in particular as concerns the severity of the sanctions which may be imposed for illegal strike action.

The Committee once again draws the Government's attention to the availability of the technical assistance of the ILO in respect of all the above matters.

Belarus (ratification: 1956)

The Committee takes note of the information provided in the Government's report. It also notes the conclusions of the Committee on Freedom of Association in Case No. 2090 (324th, 325th and 326th Reports, approved by the Governing Body at its 280th, 281st and 282nd Sessions in March, May and November 2001, respectively).

Article 2 of the Convention. Right of workers and employers to establish organizations of their own choosing without previous authorization. The Committee takes note of the information provided by the Government concerning Presidential Decree No. 2 of 26 January 1999 regarding measures regulating the activity of political parties, trade unions and other social associations. The Government states that provisions concerning the banning of activities and the liquidation of trade unions have never been used since all trade unions have been registered and that particular instances of non-registration have only occurred at the subordinate level of trade union organizations' structures. Furthermore, according to the Government, liquidation can only take place after a court decision, which can be appealed. The Committee notes, however, that under section 3 of the Decree, the activities of non-registered trade union organizations are banned. The Committee therefore requests once again that the Government amend the Decree so that section 3, concerning the banning of activities of non-registered associations, does not apply to trade unions at any level of the union's organizational structures.

The Committee notes the Government's indications that it recognizes that the main reason for the refusal to register the abovementioned trade union organizations arose from the matter of legal address. It, therefore, has drafted amendments to Presidential Decree No. 2 abolishing the registration requirement now applied to trade union organizations that are not legal persons that the existence of a legal address must be confirmed and significantly widening opportunities for trade union organizations that are legal persons. As concerns the minimum membership requirement of 10 per cent of workers at enterprise level, the Committee notes the Government's indication that, in accordance with drafted amendments, it proposes to revoke this requirement. The Committee requests that the Government provide the copy of the draft amendments and that it keep it informed of any developments in this respect.

Article 3. Right of workers' organizations to organize their activities in full freedom. In its previous comments, the Committee had recalled that the right of trade unions to organize their activities implies the recognition of the right to strike and that this right may only be limited, or even prohibited, in cases of acute national crises, or for public servants exercising authority in the name of the State or essential services in the strict sense of the term, that is to say only those the interruption of which would endanger the life, personal safety or health of the whole or part of the population. The Committee noted, however, that sections 388 and 393 of the Labour Code permit legislative limitations on the right to strike in the interest of rights and freedom of other persons, which could be used in a manner so as to restrict the legitimate exercise of the right to strike. The Committee once again requests that the Government amend these provisions so as to repeal the reference to rights and freedom of other persons to ensure that workers fully enjoy the rights guaranteed by the Convention. The Committee also requests that the Government keep it informed of any practical application of these sections.

Regarding the requirement of the notification of strike duration under section 390 of the Labour Code, the Committee notes the Government's indication that this requirement is imposed in order to establish necessary minimum services. The Committee nevertheless considers that a requirement that the duration of a strike be announced when giving notice is contrary to the right of workers' organizations to organize their activities and formulate their programmes in full freedom. The right to strike is, by definition, a means of economic pressure available to workers and their organizations for the promotion and defence of their economic and social interests. The Committee therefore once again requests the Government to repeal this notification requirement.

The Committee also notes the Government's reply concerning the obligation to provide minimum services during the period of the strike under section 392 of the Labour Code to the effect that the legislation does not provide a list of essential services, and that, as a result, the necessary minimum services are negotiated or defined in collective agreements. Moreover, according to the Government, the level of the necessary minimum service depends on the importance of the enterprise in question, ranging from the minimum to the maximum in cases when the enterprise is ensuring a service considered essential. The Committee recalls that minimum services should only be imposed in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the disputes, as well as damages to third parties, namely the users or consumers who suffer the economic effects of collective disputes, in services which are of public utility. The Committee emphasizes that the notion of minimum services should be limited to such cases and should not be applied so as to require such a service in all undertakings. The Committee considers that, in cases where minimum services are negotiated, such a service must be genuinely and exclusively a *minimum* service, that is one which is limited to the operations which are strictly necessary to meet the basic needs of the population or the minimum requirements of the service, while maintaining the effectiveness of the pressure brought to bear by the strike action (see 1994 General Survey on freedom of association and collective bargaining, paragraphs 160 and 161).

The Committee notes the Government's indication that the possibility of establishing a body empowered to take a final decision in cases where the parties disagree about the minimum service to be provided would be examined. The Committee would point out in this respect that such a role could be filled by already existing bodies such as the labour court or independent arbitration. The Committee once again requests that the Government amend the Labour Code so as to ensure that the final determination concerning minimum services be made, in the event of disagreement between the parties, by an independent body and to further ensure that minimum services are not required in all undertakings but only in the situations outlined above or to ensure the safe operation of necessary facilities.

Furthermore, the Committee notes Presidential Decree No. 11 of 7 May 2001 on several measures to improve the procedures for holding assemblies, rallies, street marches and other mass events and picketing actions. The Committee notes that paragraph 1.5 of the Decree permits the dissolution of a trade union in the event that an assembly, demonstration or picketing action results in the disruption of a public event, the temporary termination of an organization's activities or disruption of transport, loss of life, or serious bodily harm to one or more persons. The Committee considers that the dissolution of a trade union is an extreme measure and recourse to such action on the basis of a picket action resulting in the disruption of a public event, the temporary termination of an organization's activities or disruption of transport is not in conformity with the right of workers' organizations to organize their activities in full freedom. The Committee draws the Government's attention to paragraph 174 of its 1994 General Survey wherein it considered that restrictions on pickets should be limited to cases where the picketing ceases to be peaceful. The Committee therefore requests the Government to take the necessary measures to ensure that this provision of the Decree is modified so that restrictions on pickets are limited to cases where the action ceases to be peaceful or result in a serious disturbance of public order and that any sanctions imposed in such cases be proportionate to the gravity of the violation.

Articles 5 and 6. The Committee notes with regret that the Government does not reply to its previous comment concerning section 388 of the Labour Code that prohibits strikers from receiving financial assistance from foreign persons. The Committee further notes Presidential Decree No. 8 of 12 March 2001 regarding certain measures aimed at improving the arrangement of receiving and using foreign gratuitous aid. In particular, it notes paragraph 4(3) of the Decree which provides that foreign gratuitous aid, in any form, cannot be used towards the preparation and carrying out of public meetings, rallies, street processions, demonstrations, pickets, strikes, designing and disseminating campaign material, as well as running seminars and other forms of mass campaign of the population. Paragraph 5.1 provides that violation of this requirement by trade unions and other public associations can result in the termination of their activities and the provision of such aid by representative bodies of foreign organizations and international non-governmental organizations on the territory of Belarus can result in the termination of the activities of such bodies. The commentary to the Decree emphasizes that "even a single violation can bring about the elimination of a public association, fund or other non-profit organization". The Committee once again draws the Government's attention to paragraph 197 of its 1994 General Survey wherein it considered that legislation which prohibits trade unions from receiving financial aid or subsidies from foreign organizations poses serious difficulties in light of the right of organizations to affiliate with international organizations and receive the assistance and benefits which come from such affiliation. The Committee considers that the aspects of the Decree which prohibit trade unions, and employers' organizations, from using foreign aid, financial or otherwise, from international organizations of workers or employers are incompatible with *Articles 5 and 6* of the Convention. The Committee therefore once again requests the Government to take the necessary measures to amend both the Decree and section 388 of the Labour Code so that national workers' and employers' organizations may receive assistance, even financial, from international workers' and employers' organizations in pursuit of their legitimate aims.

In addition, the Committee is addressing a request regarding certain other points directly to the Government.

Belize (ratification: 1983)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In its previous comments, the Committee recalled the need to amend the Settlement of Disputes (Essential Services) Act of 1939, as amended by Ordinances Nos. 57, 92, 51 and 32 in 1973, 1981, 1988 and 1994 respectively, which empower the authorities to refer a dispute to compulsory arbitration to prohibit a strike or to terminate a strike in such services as postal, monetary, financial and revenue collecting services and transport services and services in which petroleum products are sold, which are not "essential services" in the strict sense of the term. The Committee had noted the Government's statement in a previous report to the effect that discussions were under way regarding the amendment of the list of essential services.
>
> Referring to its previous comments, the Committee had noted with satisfaction that Ordinance No. 117 of 13 November 1998 excluded all revenue collecting services of the Government from the field of application of the Settlement of Disputes (Essential Services) Act.
>
> Nevertheless, the Committee expresses its firm hope that the Government will pursue its amendment of the list of essential services so that restrictions on the right to strike apply only to the essential services in the strict sense of the term, whose interruption would endanger the life, personal safety or health of whole or part of the population and to public servants exercising a function of authority in the name of the State. It requests the Government to indicate in its next report the measures taken or envisaged in this regard and to provide a copy of amendments bringing national legislation into full conformity with the principles of freedom of association at an early date.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Bosnia and Herzegovina (ratification: 1993)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee requests the Government to provide detailed information in reply to the questions raised in the report form concerning the application of this fundamental Convention.

The Committee also requests the Government to provide the text in force of the Labour Code as well as the texts governing freedom of association, the right to organize, the settlement of collective disputes and the right to strike.

Noting the conclusions of the Committee on Freedom of Association in Case No. 2053 (324th Report, approved by the Governing Body at its 280th Session, March 2001), the Committee observes that the time limitations prescribed in the legislation for the registration of associations, including trade unions, are very short and, in practice, are equivalent to a system of previous authorization. The Committee requests that the Government amend the legislative provisions concerning trade union registration in order to bring them into conformity with the Convention.

Burundi (ratification: 1993)

The Committee notes the information contained in the Government's report, which is confined to recalling the information provided in its previous reports. It recalls that its previous comments related to the following points:

Article 2

1. *Trade union rights of public servants.* The Committee had noted that section 14 of the Labour Code excludes public servants and magistrates from its scope. It notes that according to the Government, the Statute of public servants provides in section 29 for the right to organize but there is still no legal text providing measures for the exercise of the right to strike. The Government also indicates that the Statute of magistrates provides for the right to organize. In this regard, the Committee once again requests the Government to send it copies of the Statute of public servants and the Statute of magistrates currently in force, as well as the text fixing the means of exercising the right to strike for public servants.

2. *Trade union rights of minors.* The Committee had noted that section 271 of the Labour Code provides that minors under the age of 18 years must obtain explicit authorization from their parent or guardian to join a trade union. The Committee takes due note of the Government's statement according to which no minor can perform an act of a legal nature without the authorization of his or her parents. However, the Government had given the assurance that it would abolish this authorization concerning the decision to join a trade union. The Committee requests that the Government indicate the measures which have been taken or are envisaged to ensure the trade union rights of minors who are entitled to have access to the labour market, both as workers and as apprentices, without the requirement of parental authorization.

Article 3

1. *Election of trade union leaders.* The Committee noted that the Labour Code sets certain conditions for holding the position of trade union officer or administrator.

- *Criminal record (section 275 of the Labour Code).* This section provides that trade union leaders or administrators must not have served a definitive term of imprisonment of more than six months. The Committee notes the Government's statement that court decisions have found workers guilty of misuse of funds but that it does not have access to these judgements. The Committee considers that a conviction for misuse of funds may be viewed as an act, the nature of which is such as to call into question the integrity of the person concerned and offers tangible risks for the performance of trade union duties. However, the above section is particularly broad in its wording and could therefore cover acts without any real bearing on qualities of integrity required to discharge trade union office. The Committee requests that the Government indicate the measures which have been taken or are envisaged to amend this section with a view to ensuring that only crimes prejudicial to the performance of trade union duties are taken into consideration when disbarring candidates from trade union office.

- *Belonging to the respective occupation (section 275).* This section provides that the administrator or trade union leader must have belonged to the occupation or trade for at least one year. The Committee considers that provisions which require all candidates for trade union office to belong to the respective occupation or enterprise are contrary to the guarantees set forth in the Convention. Provisions of this type infringe the organization's right to elect representatives in full freedom by preventing qualified persons, such as full-time union officers or pensioners, from carrying out trade union duties or by depriving unions of the benefits of the experience of certain officers when they are unable to provide enough qualified persons from among their own ranks. Moreover, there is also a real risk of interference by the employer through the dismissal of trade union officers, which deprives them of their trade union office (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 117). The Committee again requests the Government to modify its legislation by accepting the candidature of persons who worked previously in the respective occupation or by lifting this requirement for a reasonable proportion of trade union officers.

2. *Articles 3 and 10 of the Convention. The right of workers' organizations to organize their administration and activities to further and defend the interests of their members.* The Committee had noted that the series of compulsory procedures prior to taking strike action laid down in the Labour Code (sections 191-210) would suggest that the minister was empowered to prohibit any strike.

In recent reports, the Government has indicated that it is aware of the necessity to clarify the modalities concerning the exercise of the right to strike and that a draft text to be issued under the Labour Code on this matter already existed and would be examined by the National Labour Council. The Committee once again requests that the Government provide it with a copy of the above text on the modalities for the exercise of the right to strike so that it can examine its conformity with the provisions of the Convention.

The Committee had also noted that, under the terms of section 213 of the Labour Code, a strike is legal when it is called following a vote approved by a simple majority of the employees of the workplace or the enterprise. In this regard, the Government indicated that in practice a vote of the workers concerned was not necessary and that it was sufficient for consensus to exist on this matter. The Committee requests that the Government indicate the measures which have been taken or are envisaged to bring the legislation into conformity with practice.

The Committee hopes that the Government, in the light of the comments made above, will take all the necessary measures to bring its national legislation into conformity with the Convention. It draws the Government's attention to the availability of the Office to provide any technical assistance in this respect that it may consider necessary.

Cameroon (ratification: 1960)

The Committee notes the information contained in the Government's report. It also notes the comments of the Federation of Free Trade Unions of Cameroon (USLC). The Committee also takes due note of the report of the direct contacts mission that visited Cameroon in April 2001. The Committee observes that following that mission, the Government transmitted a bill amending certain provisions of Act No. 92/007 of 14 August 1992 promulgating the Labour Code.

The Committee recalls that for several years it has been addressing the following points in its comments.

1. *Article 2 of the Convention. Prior authorization.* The Committee has been noting for many years that Act No. 68/LF/19 of 18 November 1968, under which the existence in law of a trade union or occupational association of public servants is subject to prior approval by the Minister for Territorial Administration, and section 6(2) of the Labour Code of 1992, under which persons forming a trade union which has not been registered and who act as if the said union has been registered shall be liable to prosecution, are not consistent with *Article 2* of the Convention. The Committee notes with interest in this connection that in the bill transmitted by the Government, section 6(2) of the Labour Code of 1992 has been deleted in its entirety. The Committee notes that the bill is shortly to be submitted to the National Assembly, and asks the Government to provide a copy of the new Act once it has been adopted.

With regard to the Act of 1968 governing trade unions or occupational associations of public servants, the Government states in its report that the fact that Decree 2000/287 of 12 October 2000 amending and supplementing certain provisions of the General Statute of the Civil Service allows ((new) section 72) a civil servant to be released for the performance of trade union duties, is a step towards trade unionism in the public service being allowed by law. While noting this development, the Committee again urges the Government to amend Act No. 68/LF/19 of 18 November 1968 in order to ensure that public servants have the right to form organizations of their choice without prior authorization.

2. *Article 5. Prior authorization for affiliation to an international organization.* The Committee has been pointing out for several years that section 19 of Decree No. 69/DF/7 of 6 January 1969, which provides that trade unions or associations of public servants may not join a foreign occupational organization without obtaining prior authorization from the Minister responsible for "supervising fundamental freedoms", is inconsistent with *Article 5* of the Convention. The Committee noted in this connection the earlier statements made by the Government to the effect that the abovementioned Decree would be brought into line with the Convention as soon as the new Act on public servants' unions was promulgated. The Committee again urges the Government to amend its legislation as soon as possible in order to eliminate the requirement that public service unions obtain prior authorization before joining an international organization.

Lastly, the Committee notes the comments made by the USLC to the effect that, in practice, the formalities for registration set in section 7 of the Labour Code are not observed by the Registry of Trade Unions, which requires applicants for registration to submit documents not specified in the Code. The Committee asks the Government to send its observations on the USLC's comments in its next report.

Central African Republic (ratification: 1960)

The Committee notes the information contained in the Government's report and, in particular, that work has begun on revision of the Labour Code.

It recalls that its previous comments related to sections 1, 2 and 4 of Act No. 88/009 of May 1988 on freedom of association and the protection of trade union rights, amending the Labour Code, and section 11 of Order No. 81/028 of 1984 concerning the Government's power of requisition in the event of a strike:

- section 1 of Act No. 88/009 provides that any person having lost the status of worker cannot either belong to a trade union or take part in its leadership or administration;
- section 2 of the Act provides that trade union officers must be members of a trade union;
- section 4 of the Act provides that trade unions constituted in federations and confederations may group together in a single central national union.

The Committee noted in its previous reports that sections 1 and 2 of Act No. 88/009 may infringe the right of organizations to elect their representatives in full freedom. The Committee requested that the Government relax excessive restrictions concerning the requirement that trade union officers belong to the same occupation as the workers in order to ensure that qualified persons may carry out union duties. When legislation imposes conditions of this kind for all officers, there is a real risk of interference by the employer through the dismissal of trade union officers, which deprives them of their trade union office. In order to bring the legislation into conformity with the Convention, it should be made more flexible, either by admitting as candidates persons who have previously been employed in the occupation concerned, or by exempting from the occupational requirement a reasonable proportion of the officers of the organization (see General Survey on freedom of association and collective bargaining, 1994, paragraph 117). In its latest report, the Government indicates that in sections 15 and 21 of a preliminary draft Labour Code, these restrictions have been replaced by more flexible provisions.

The Committee also noted that section 4 of Act No. 88/009 infringed the right of workers' organizations to constitute federations and confederations of their choice. In its most recent report, the Government indicates that it has noted the relevance of this observation and abolished those provisions in the preliminary draft Code.

With regard to section 11 of Order No. 81/028 concerning the Government's power of requisition in the event of a strike when so required in the general interest, the Committee emphasized that it was necessary to restrict powers of requisition to cases in which the right to strike may be limited or even prohibited, namely in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population, or in a situation of acute national crisis. The Government indicates in its report that the Council of Ministers will examine this issue in the very near future.

The Committee requests that the Government keep it informed of the progress made in the revision of the Labour Code and supply in its next report a copy of the preliminary draft Labour Code so that the Committee can examine its conformity with the provisions of the Convention.

Chile (ratification: 1999)

The Committee notes the first report sent by the Government along with the comments supplied by the Single Central Organization of Chilean Workers in February 2001 with reference to the Labour Code in force at that time.

The Committee also notes with satisfaction that, between the ratification of the Convention and the sending of the first report, the National Congress has amended the Labour Code to provide improved application of the Convention. Specifically, through the amendments made to the Labour Code, the scope of application of the right to organize has broadened, the number of persons required in order to establish trade unions has decreased, certain conditions for trade union leadership eligibility have been abolished and the power of the authorities to interfere in trade union organizations has been reduced.

In addition, the Committee is raising a number of matters in relation to the application of the Convention in a direct request.

Colombia (ratification: 1976)

The Committee notes the Government's report and the debate which took place in the 2001 Conference Committee on the Application of Standards. The Committee also notes the report of the Committee on Freedom of Association on the various pending cases which relate to Colombia, adopted at its March 2001 meeting.

First, the Committee notes again with very deep concern the climate of violence which exists in the country and, in particular, the conclusions of the Committee on Freedom of Association in Case No. 1787 in which it is stated that between the direct contacts mission in February 2000 and October 2000, more than 100 murders of trade union officials and members were reported and "the Committee [on Freedom of Association] deeply regrets that, once again, it must observe that in most of the cases of murder, murder attempts or disappearances of trade union officials and members, those responsible have not been arrested and punished" (see 324th Report of the Committee, paragraphs 272 and 274). In this regard, the Committee emphasizes once again that the guarantees set out in the international labour Conventions, in particular those relating to freedom of association, can only be effective if the civil and political rights enshrined in the Universal Declaration of Human Rights and other international instruments are genuinely recognized and protected (see General Survey on freedom of association and collective bargaining, 1994, paragraph 43).

The Committee recalls that it has been commenting for many years on certain legislative provisions, specifically in relation to:

- the prohibition of federations and confederations from calling strikes (section 417(i) of the Labour Code);
- the prohibition of strikes, not only in essential services in the strict sense of the term (namely the interruption of which would endanger the life, personal safety or health of the whole or part of the population) but also in a wide range of services which are not necessarily essential (section 450(1)(a) of the Labour Code and Decrees Nos. 414 and 437 of 1952, 1543 of 1955, 1593 of 1959, 1167 of 1963, 57 and 534 of 1967) and the possibility of dismissing trade union officers who have intervened or participated in an unlawful strike (section 450(2) of the Labour

Code), including when the strike is unlawful due to requirements which are contrary to the principles of freedom of association; and

- the power of the Minister of Labour to refer a dispute to arbitration when a strike lasts longer than a specific period (section 448(4) of the Labour Code).

In this regard, the Committee recalls that in its previous observation it noted that during the direct contacts mission carried out in February 2000, draft legislative texts were prepared which were designed to amend the abovementioned provisions and that the Government undertook to submit these draft texts to the social partners and subsequently to Congress. The Committee notes that the Government indicates that: (1) the subjects related to labour legislation and the development of section 53 of the political charter are part of the tripartite agreement for social dialogue which was concluded on 14 August 2000 between the Colombian Government, the workers' and pensioners' central associations and the trade unions; (2) the abovementioned draft laws were tabled at various meetings in September and October 2000; and (3) since no agreement was reached on the subjects in question, it was deemed appropriate for them to be placed before the consultative commission on salary and labour policies for consideration. In these circumstances, the Committee expresses the firm hope that the draft laws in question will be placed before Congress in the very near future and that the abovementioned draft legislation will be adopted. The Committee requests that the Government keep it informed of the progress made in this respect in its next report.

Congo (ratification: 1960)

The Committee notes the information in the Government's report. It notes in particular the Government's statement that work has begun on revising the Labour Code.

The Committee recalls that its previous comments focused on the need to amend the legislation on the minimum service "indispensable to safeguard the general interest" to be maintained in the public service, which is organized by the employer, wherein refusal to participate constitutes serious misconduct (section 248-16 of the Labour Code). The Committee noted that the definition of the minimum service should be limited to those operations which are strictly necessary to meet the basic needs of the population and that workers' organizations should participate in the determination of such a service. The Committee notes that the Government confirms its intention to review this provision in consultation with the social partners. The Committee again asks the Government to keep it informed of any developments in this area and to provide a copy of the text amending the provision.

The Committee also noted that the Labour Code contains no provisions authorizing workers and employers to include in collective agreements a clause on the deduction of trade union dues from the wages of workers with the latter's consent. The Committee asks the Government to state in its next report whether procedures exist, in practice, for deducting trade union dues from workers' wages.

The Committee requests that the Government keep it informed of progress in the revision of the Labour Code in its next report and provide copies of any draft amendments to the Code so that their conformity with the provisions of the Convention may be ascertained.

Cuba (ratification: 1952)

The Committee notes the Government's report and recalls that its previous comments referred to: (1) the need to delete from the Labour Code of 1985 the reference to the "Confederation of Workers" (sections 15 and 16); (2) the need to amend Legislative Decree No. 67 of 1983 (section 61), which confers on the above Confederation of Workers the monopoly of representing the country's workers on government bodies; and (3) various recommendations by the Committee on Freedom of Association requesting the Government to ensure that recognition of certain trade unions was allowed by law.

1. *Articles 2, 5 and 6 of the Convention.* Regarding the need to delete from the Labour Code of 1985 the reference to the Confederation of Workers, the Committee notes that the Government reports once again that the matter is being studied in the context of the draft revision of the Labour Code which involves broad consultations with the social partners. The Committee regrets, however, that the above draft has still not been adopted despite the Committee's numerous requests to delete these references. The Committee emphasizes yet again that trade union pluralism must remain possible in all cases. Therefore, the law should not institutionalize a de facto monopoly; even in a situation where at some point all workers have preferred to unify the trade union movement, they should still remain free to choose to set up unions outside the established structures should they so wish (see General Survey on freedom of association and collective bargaining, 1994, paragraph 96). The Committee therefore expresses the firm hope that the draft revision of the Labour Code will be adopted in the very near future and that account will be taken of this principle.

2. *Article 3.* With regard to the need to amend Legislative Decree No. 67 of 1983, which confers on the Confederation of Workers the monopoly of representing the country's workers on government bodies, the Committee notes the Government's observation to the effect that the abovementioned legislation has been amended by the sixth provision of Legislative Decree No. 147 of 1994. The Committee points out that the latter: (1) does not expressly repeal or amend section 61 of Legislative Decree No. 147; and (2) confirms, in its first provision, that "the organizational and operational bases established in ... Legislative Decree[s] No. 67 of 19 April 1983 ... shall remain in force in so far as they are not contrary to the provisions of this legislative Decree". The Committee also notes the Government's statement that Agreement No. 2820 of 1995 is now in force and approves the functions of the Ministry of Labour and Social Security (formerly the State Committee for Labour and Social Security). The Committee observes, however, that the Confederation of Workers of Cuba is again referred to in the final provision of the abovementioned Agreement. The Committee urges the Government to amend the provision in question in order to guarantee the possibility of trade union pluralism, for instance by replacing the reference to the Confederation of Workers with the "most representative organization".

3. With regard to the recommendations of the Committee on Freedom of Association in Case No. 1961 (see 320th Report, March 2000), in which the Government was asked to ensure that the law allow recognition of the Single Council of Cuban Workers (CUTC), the Committee notes the Government's statement that in fact no such trade union organization exists and that the trade union officers referred to have not been elected. The Committee reiterates that the freedom, de facto and de jure, to establish

organizations is the foremost among trade union rights and is the essential prerequisite without which the other guarantees enunciated in Conventions Nos. 87 and 98 would remain a dead letter (see General Survey, op. cit., paragraph 44). The Committee hopes that the necessary measures will be taken to ensure that all workers enjoy this right, both in law and in practice.

Dominica (ratification: 1983)

The Committee notes with regret that the Government's report does not reply to its previous comments on the following points.

The Committee has been referring for a number of years to the need to amend legislation so that restrictions on the right to strike would only be imposed in the case of essential services, meaning the services the interruption of which would endanger the life, personal safety or health of the whole or part of the population, or in case of an acute national crisis. The Committee had noted that the banana, citrus and coconut industries, as well as the port authority, were included in the schedule of essential services annexed to Act No. 18 of 1986 on industrial relations, making it possible to stop a strike by compulsory arbitration, and that sections 59(1)(b) and 61(1)(c) of this Act empowered the Minister to refer disputes to compulsory arbitration if in his or her opinion it concerned serious issues.

In this respect, the Committee draws the Government's attention to paragraph 160 of its 1994 General Survey on freedom of association and collective bargaining wherein it states that, in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, the authorities could establish a system of minimum service in other services which are of public utility, like the port authority, rather than impose an outright ban on strikes, which would be limited to essential services in the strict sense of the term.

The Committee urges the Government once again to take the necessary measures in the very near future to ensure that strikes may only be prohibited in essential services in the strict sense of the term, in conformity with *Article 3 of the Convention*. It draws the Government's attention to the availability of the technical assistance of the Office in this respect should it so desire.

Ecuador (ratification: 1967)

The Committee notes the Government's report.

The Committee recalls that in its previous observations it raised the following points.

1. *Right of workers and employers, without distinction whatsoever, to establish organizations of their own choosing (Article 2).*

(a) The Committee has referred to the need to amend section 59(f) of the Civil Service and Administrative Careers Act to ensure that civil servants, in addition to being able to "associate and appoint their leaders," are able to establish organizations to promote and defend their occupational and economic interests. Noting that the Government continues to refer to article 35(9) of the Political Constitution, the Committee recalls that, when it comes to the question of the right of public servants, this article refers to the laws governing the public administration. The

Committee therefore requests the Government to provide information in its next report on any legislative progress made in amending the Civil Service and Administrative Careers Act so that public servants can establish organizations within the meaning of *Article 10 of the Convention*.

(b) The Committee also referred to the need for civilian workers in bodies associated with or dependent on the armed forces, and workers in the maritime transport sector, to enjoy the right to join trade unions. In this respect, the Committee regrets that the Government does not refer to this matter in its report. The Committee considers that, in view of the fact that *Article 9* of the Convention only envisages exceptions for the police and the armed forces, workers should be considered as civilians in case of doubt (see General Survey on freedom of association and collective bargaining, 1994, paragraph 55). The Committee therefore asks the Government to take measures to ensure that civilian employees in the armed forces and the maritime sector are guaranteed the right to organize in conformity with *Article 20* of the Convention and to provide information in this respect in its next report.

The Committee also addressed the issue of the refusal to register the Union of Ecuadorian Shipping Transport Workers (TRANSNAVE), and notes in this respect the Government's indication in its report that it would not oppose the registration of this trade union. In these conditions, the Committee requests that the Government take the necessary measures for the registration of the trade union as soon as possible. It asks the Government to provide information in this respect in its next report.

(c) The Committee also recalls that for a number of years it has been referring to the need to reduce the minimum number of workers (30) required to be able to establish associations, works committees or assemblies to organize works committees (sections 450, 466 and 459 of the Labour Code). It reiterates that, although this minimum number of workers would be permissible for industrial trade unions, it could have the effect of hindering the establishment of enterprise organizations, particularly in small enterprises, which appear to be very numerous in the country. The Committee expresses the firm hope that in the very near future the Government will adopt the relevant measures to reduce the minimum number of workers required to form works committees.

(d) With regard to the administrative refusal to register a trade union, professional association (section 452 of the Labour Code) or works committee (section 466(2)), the Committee regrets to note that the Government has not made any comment and requests it to ensure that, in the event of refusal of registration, the trade union, association or works committee whose application was denied is able to appeal to the competent judicial authorities for the examination of the question on the merits and the reasons for which the measure was taken.

2. *Right of workers' organizations to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmes (Article 3).*

(a) The Committee recalls that in its previous comments it referred to the need to amend section 60(g) of the Civil Service and Administrative Careers Act, which prohibits civil servants from calling strikes. It also requested the Government to amend article 45(10) of the Political Constitution, which prohibits the interruption of public services for any reason. The Committee noted in this respect that this prohibition should be confined to public servants acting in their capacity as agents of the public authority or to essential services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

The Committee notes that, according to the Government's latest report, since public servants exercising authority are not those who provide public services which may be essential for the life and integrity of the population, it would not be logical to limit the prohibition of strikes to these persons. Furthermore, according to the Government, the education and transport sectors must be considered as basic essential services. The Committee nevertheless considers that the abovementioned provisions incorporate an overly broad view of those public servants who may be excluded from the exercise of the right to strike and of "essential services" in which strikes may be prohibited. The Committee recalls in particular that the education and transport sectors do not constitute essential services in the strict sense of the term. It recalls however that the authorities may establish a system of minimum service in services which are not essential, such as public utilities, instead of prohibiting all strike action. In the light of these considerations, the Committee hopes that the above provisions will be brought into conformity with *Article 3* of the Convention in the near future.

(b) In its previous comments, the Committee also referred to the need to amend section 522(2) of the Labour Code concerning the determination of minimum services in the event of a strike by the Minister in the case of a disagreement between the parties. Noting that the Government does not refer to this matter, the Committee once again requests it to take the necessary measures to ensure that workers' organizations are able to participate, if they so wish, in defining this service, along with employers and the public authorities (see 1994 General Survey, paragraph 161). The Committee expresses the firm hope that the Government will make this amendment to the legislation in the near future and will provide information in this respect in its next report.

(c) The Committee notes the Government's indication that appropriate procedures have been set in motion to repeal Decree No. 105 of 7 June 1967, with regard to unlawful work stoppages and strikes, and the prison sentences which can be imposed on those instigating or taking part in such acts. The Committee hopes that the Government will complete this process in the near future and requests that the Government provide information on this in its next report.

(d) With regard to the implicit denial of the right to strike for federations and confederations (section 505 of the Labour Code), the Committee notes that the Government makes no comment on this matter. It recalls that workers' organizations have the right to organize their activities and to formulate their programmes *(Article 3)* and that, under *Article 6* of the Convention, provisions of this Article apply to federations and confederations of workers' and employers' organizations. It therefore requests the Government to take measures to amend its legislation so as to ensure that federations and confederations may exercise industrial action without penalty.

(e) With regard to the requirement that a person must have Ecuadorian nationality in order to serve as a trade union official (section 466(4) of the Labour Code), the Committee notes the Government's indication that it is possible to recognize a person who is not of Ecuadorian nationality as a trade union officer since, in any case, the Convention and the Political Constitution (article 13, under which "foreign nationals shall enjoy the same rights as Ecuadorians, with the limitations established in the Constitution and in the law") prevail over the law, because they have supremacy and higher legal authority than other legislative provisions, such as the Labour Code. Nevertheless, the Committee understands that section 466(4) of the Labour Code sets forth a specific limitation on the right of persons who are not nationals of Ecuador to hold trade union office (the members of the executive board have to be nationals of Ecuador), whereas *Article 3* of the Convention provides generally that workers' organizations shall have the right to elect their representatives in full freedom. Recalling that national legislation should allow foreign workers to take up trade union office, at least after a reasonable period of residence, in the host country (see 1994 General Survey, paragraph 118), the Committee asks the Government to take measures to amend section 466(4) of the Labour Code.

3. *Workers' organizations shall not be liable to be dissolved or suspended by administrative authority (Article 4).*

(a) In its previous comments, the Committee referred to the need to ensure the right to appeal to the judicial authorities against the dissolution by the administrative authority of a works committee, which may arise under section 472 of the Labour Code. The Committee notes that under the terms of section 447 of the Labour Code, "workers' organizations shall not be suspended or dissolved except by judicial process before the labour courts". The Committee recalls in this respect that the right of appeal must be allowed to an independent and impartial judicial body which is competent to examine the case on its merits. Moreover, the administrative decision should not take effect until a final decision is handed down (see 1994 General Survey paragraph 185). The Committee therefore requests that the Government indicate in its next report whether labour court judges are competent to examine the merits of the case and whether an administrative decision does not take effect until a final decision is handed down.

Finally, noting that despite the technical assistance provided by the Office, the Government has still not brought its law and practice into conformity with the Convention on the points referred to above, the Committee encourages the Government to make progress in adapting its legislation to the Convention on all the matters referred to above. It asks the Government to provide it with information in this respect in its next report. It once again recalls that ILO technical assistance is available to the Government in this regard.

The Committee is also addressing a request on another matter directly to the Government.

Egypt (ratification: 1957)

The Committee notes the Government's report. It recalls that its previous comments related to the following matters.

1. *Articles 2, 5 and 6 of the Convention.* In its previous comments, the Committee asked the Government to amend sections 7, 13 and 52 of Act No. 35 of 1976, as well as sections 14, 16, 17 and 41 of Act No. 12 of 1995 to ensure that all workers who so wish have the right to establish occupational organizations outside the existing trade union structure. The Committee notes the information contained in the Government's report to the effect that section 7 above provides that "the trade union structure is established in the form of a pyramid based on trade union unity". In its report, the Government emphasizes that trade union unity emanates from the will of the workers and is not imposed upon them.

With regard to section 13 of Act No. 35 of 1976, the Government states in its report that this provision establishes a classification of occupational groups for industries which are similar or interlinked, or which have a common product, on condition that each group of similar categories is entitled to establish a single general trade union at the level of the Republic. It appears that the workers have the right to join organizations enumerated in the legislation and to leave them, as indicated by the Government, but they do not have the right to establish or join an organization outside the established trade union structure. The Committee recalls in this respect the importance of the right of workers to establish organizations *of their own choosing*, and that this right is breached where the law maintains a trade union monopoly.

With regard to the right, referred to by the Government in an earlier report, of the General Confederation of Trade Unions to establish trade union organizations, the Committee recalled the primary importance that it attaches to the right of workers to establish and join organizations within the meaning of *Article 2*. Furthermore, the preference of the trade union movement for a unified system is not sufficient to justify a monopoly established by law. The Committee reiterates that, even where at some point all workers have preferred to unify the trade union movement, they should still remain free to choose to set up unions outside the established structures should they so wish (see General Survey on freedom of association and collective bargaining, 1994, paragraph 96). The Committee therefore once again urges the Government to ensure that sections 7, 13 and 52 of Act No. 35 of 1976, as well as sections 14, 16, 17 and 41 of Act No. 12 of 1995, are amended to secure for all workers the right, should they so wish, to establish occupational organizations at all levels outside the existing trade union structure and it requests the Government to indicate in its next report the measures which have been taken or are envisaged in this respect.

2. *Article 3.* The Committee recalls that its previous comments concerned sections 41 and 42 of Act No. 12 of 1995. It also recalls that the procedures for the nomination and election to trade union office should be fixed by the rules of the organization concerned, and not by law or by the single trade union central organization designated by the law. The Committee notes the information provided by the Government in its report to the effect that the General Confederation of Trade Unions confines itself to setting the dates of elections and the procedures for the selection of candidates, which is a purely organizational function and does not concern the authority of the confederation or the supervision of trade union organizations. The Government adds that the selection procedures for candidates and elections for trade union office must be determined by the specific rules of the trade union organizations and not by law or by a single trade union central organization with the support of the law. The Committee nevertheless recalls that section 41 above provides that the date and

rocedure for nomination and election to the executive boards of trade union rganizations shall be determined by a decision of the competent minister, with the pproval of the General Confederation of Trade Unions. Section 42 sets out the manner f filling vacancies and also permits the General Confederation to determine the onditions and modalities of the dissolution of such boards in the event of a reduction in ne number of members. The Committee expresses the firm hope that the Government ill make the necessary amendments to ensure that each workers' organization is able to lect its representatives in full freedom in accordance with *Article 3* of the Convention.

With reference to sections 62 and 65, the Committee notes that, according to the iovernment's statement, financial control is confined to general organizations and to the ieneral Confederation of Trade Unions. The Committee recalls that it is contrary to *rticle 3* to empower the single central trade union organization designated by the law to xercise financial control. It once again requests the Government to take the necessary ieasures to ensure that section 62, which provides that the Confederation shall etermine the financial rules of trade unions and obliges lower level unions to pay a ertain percentage of their income to higher level organizations, and section 65 of Act o. 12 of 1995, which provides that the confederation shall control all trade union ctivities, are amended so that workers' organizations have the right to organize their dministration, including their financial activities, without interference, in accordance ith *Article 3*.

3. *Articles 3 and 10.* The Committee notes that the information provided in the overnment's report is the same as that supplied in its previous report. The Committee therefore bound to recall its concerns regarding the following provisions:

) sections 93 to 106 of the Labour Code, as amended by Act No. 137 of 1981, providing for compulsory arbitration at the request of one of the parties in services other than those that are essential in the strict sense of the term;

) section 70(2)(b) of Act No. 35 of 1976 authorizing the Public Prosecutor to ask the criminal courts to remove from office the executive committee of a trade union that has provoked work stoppages or absenteeism in a public service; and

i) section 14(i) of Act No. 12 of 1995 requiring the General Confederation to approve the organization of strike action.

With regard to sections 93 to 106 of the Labour Code, the Committee noted in its evious comment that the Government had referred to a new draft Labour Code ablishing a system of mediation in the event of labour disputes, which may then lead arbitration at the request of both parties. A new tripartite arbitration board was also to created by the draft text. The Committee requests the Government to provide copies the provisions of the new draft Labour Code mentioned by the Government and to ort on the progress achieved in the adoption of the above text.

In relation to section 70(2)(b) of Act No. 35 of 1976, which provides for the solution of the executive committee of a trade union that has provoked work ppages or absenteeism in a public service, the Government reiterates its statement that section is limited to enterprises providing general services, public facilities or ices responding to the needs of the population. The Committee recalls that it has ays considered that any restriction or limitation on the right to strike should be ited to public servants exercising authority in the name of the State or to essential services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see 1994 General Survey, paragraphs 158 and 159), and it considers that the scope of the enterprises covered by section 70(2)(b) goes beyond this definition. However, it recalls that, in order to avoid damages which are irreversible or out of all proportion to the occupational interests of the parties to the dispute, as well as damages to third parties, namely the users or consumers who suffer the economic effects of collective disputes, the authorities could establish a system of minimum service in other services which are of public utility rather than imposing an outright ban on strikes (see 1994 General Survey, paragraph 160). The Committee therefore requests the Government to indicate the measures taken to amend section 70(2)(b) taking into account the above principles.

Finally, with regard to section 14(i) of Act No. 12 of 1995, the Committee notes the information provided by the Government in its report to the effect that the General Confederation is empowered to approve the organization of a strike by workers. The Government adds that this prerogative supports and reinforces the objective of the trade union movement. In this respect, the Committee recalls that the requirement of the approval of the General Confederation to organize a strike is not in conformity with the Convention, as it denies first-level organizations the right to organize their activities and to formulate their programmes independently, including the decision on whether to call a strike. The Committee once again urges the Government to amend the legislation in order to bring it into conformity with *Article 3* of the Convention, so that first-level organizations have the right to organize all their activities, whatever they may be, without the imposition by law of the requirement of prior authorization by the General Confederation.

The Committee is also addressing a request directly to the Government.

Ethiopia (ratification: 1963)

The Committee notes with regret that the Government's report has not been received despite the fact that the Committee on the Application of Standards had requested a detailed report in 2001.

The Committee notes the oral information provided by the Government representative to the Conference Committee in 2001, as well as the discussion which took place therein and the resulting special paragraph in the Conference Committee's report. It further notes the most recent conclusions and recommendations by the Committee on Freedom of Association in Case No. 1888 (see 325th Report of the Committee on Freedom of Association, approved by the Governing Body at its 281st Session, June 2001).

In its previous comments, the Committee had expressed its deep concern over the current, extremely serious, trade union situation and, in particular, the government interference in trade union activities.

The Committee had also expressed its concern regarding the conviction on charges of conspiracy against the State of the president of the Ethiopian Teachers' Association, Dr. Taye Woldesmiate, who had been held in preventive detention for three years and who was sentenced to a prison term of 15 years. The Committee now notes with deep concern from the latest examination of the case before the Committee on Freedom of

Association, that a hearing on Dr. Woldesmiate's appeal of this decision has been adjourned 12 times since his conviction in 1999, without a discussion yet even being issued on the receivability of the appeal. In this regard, the Committee stresses the importance it places upon the observance of the right of all detained or accused persons, including trade unionists, to be tried promptly through normal judicial procedures, which includes in particular: the right to be informed of the charges brought against them, the right to have adequate time for the preparation of their defence, the right to communicate freely with counsel of their own choosing, and the right to a prompt trial by an impartial and independent judicial authority in all cases, including cases in which trade unionists are charged with criminal offences, whether of a political nature or not, which in the Government's view have no relation to their trade union functions (see General Survey on freedom of association and collective bargaining, 1994, paragraph 32).

While noting the Government representative's statement before the Conference Committee that the drafting of a new law governing teachers' associations and state administration employees is under way, the Committee recalls that the Government has referred to the drafting of new legislation for over seven years now and regrets that no specific progress or developments have yet occurred.

The Committee further recalls that its previous comments concerned the following.

Article 2 of the Convention. Right of workers without distinction whatsoever to join an organization of their own choosing. The Committee had noted that only one trade union may be established in an undertaking where the number of workers is 20 or more, in accordance with section 114 of Labour Proclamation No. 42-1993. The Committee considers that legislation which provides that only one trade union may be established for a given category of workers runs counter to the provisions of the Convention. It therefore once again urges the Government to take the necessary measures in order to guarantee that trade union diversity remains possible in all cases.

Articles 2 and 10. Restrictions on the right to unionize of teachers and civil servants. The Committee had noted that section 3(2)(b) of Labour Proclamation No. 42-1993 excludes teachers from its scope of application and had requested the Government to indicate how teachers' associations could promote their occupational interests. The Committee notes from the Government representative's statement before the Conference Committee that the draft law, including the proposal for the rights of civil servants to form unions, had already been drafted and had been submitted to the different stakeholders for comment and suggestions. The Committee requests the Government once again to forward any draft legislation governing teachers' associations and other government employees. Furthermore, having also noted that state administration officials, judges and prosecutors are also excluded from Proclamation No. 42-1993, the Committee reiterates its request that the Government indicate whether these categories of workers are entitled to associate to further and defend their occupational interests and if they will be covered by the proposed draft legislation mentioned above.

Article 4. Administrative dissolution of trade unions. In its previous comments, the Committee noted with concern that the Ministry of Labour had cancelled the registration of the former Confederation of Ethiopian Trade Unions (CETU) pursuant to the powers vested in it under section 120 of the Labour Proclamation. The Government had indicated in its last report that the Ministry of Labour and Social Affairs had submitted draft legislation to the Council of Ministers which would vest the power of cancellation solely in the Ethiopian courts. The Committee once again requests the Government to transmit with its next report any draft legislation or amendments which would ensure that an organization cannot be dissolved or suspended by an administrative authority.

Articles 3 and 10. Right of workers' organizations to organize their programme of action without interference by the public authorities. In its previous comments, the Committee had noted that the Labour Proclamation contains broad restrictions on the right to strike, namely: the definition of essential services contained in section 136(2) is too broad. The definition should, in particular, not include air transport and railway services, urban and inter-urban bus services, filling stations, bank and postal services (sections 136(2)(a), (d), (f) and (h)). In addition, sections 141(1), 142(3), 151(1), 152(1), 160(1) and (2) allow labour disputes to be reported to the Ministry for conciliation and binding arbitration by either of the disputing parties. In order to avoid damages which are irreversible or out of all proportion to the parties, namely the users or consumers who suffer the economic effects of collective disputes, the Committee suggests that the Government give consideration to the establishment of a system of minimum service in other services which are of public utility rather than impose an outright ban on strikes, which should be limited to essential services in the strict sense of the term (see 1994 General Survey on freedom of association and collective bargaining, paragraph 160). The Committee once again requests that the Government amend its legislation so that the ban on strikes be limited to essential services in the strict sense of the term and so that disputes may be submitted to the Labour Relations Board for binding arbitration only if both parties agree, or if they are in relation to essential services whose interruption would endanger the life, personal safety or health of the whole or part of the population or in case of an acute national crisis.

The Committee urges the Government to take all necessary measures to ensure the full respect of the civil liberties essential for the implementation of the Convention. Furthermore, the Committee urges the Government to communicate in its next report the measures taken to amend its legislation and practice in order to comply with the requirements of the Convention and, in particular, requests the Government to transmit copies of any relevant draft legislation as well as the court judgement concerning the appeal made by the President of the Ethiopian Teachers' Association, Dr. Taye Woldesmiate.

Ghana (ratification: 1965)

The Committee takes note of the Government's report. It notes in particular that the codification of the new Labour Bill mentioned in last year's report has been completed and is currently being examined by the Cabinet before it is transmitted to Parliament for final approval. The Committee requests the Government to transmit a copy of this Bill in order to enable it to examine its conformity with the requirements of the Convention. The Committee trusts that the Bill, once adopted, will ensure full conformity with the provisions of the Convention in particular in respect of its previous comments concerning the following points:

- the need to modify sections 11(3) and 12(1) of the Trade Union Ordinance of 1941, and section 3(4) of the Industrial Relations Act (IRA) No. 299 of 1965, which, respectively, impose a single trade union system and grant the Registrar extensive powers regarding the registration of trade unions and the approval of negotiators;

- the need to ensure that any restrictions imposed on public meetings and processions by virtue of the Emergency Powers Act, 1994 (Act No. 472), be limited in scope and duration;
- the need to amend section 18 of the IRA which provides for compulsory arbitration by the Minister at the request of one of the parties to the dispute;
- the need to repeal section 22 of the IRA, which provides that a person declaring, instigating or inciting others to take part in a strike considered to be illegal is liable to a fine or one year's imprisonment, or both.

The Committee requests the Government to indicate in its next report the measures taken or envisaged to bring its legislation into conformity with national practice and, in the meantime, to keep it informed of any prosecutions arising under section 22 of the IRA.

Guatemala (ratification: 1952)

The Committee notes the Government's report and the report on the direct contacts mission which took place in Guatemala from 23-27 April 2001. It also notes the discussion held in the Conference Committee on the application of Convention No. 87. In addition, the Committee notes the comments made by the Trade Unions and People's Action Unit (UASP), dated 8 June 2001, and the Government's reply to them. The Committee requests the Government to supplement its reply by answering point by point the questions raised by the UASP.

Legislative matters

The Committee notes with satisfaction the adoption by the Congress of the Republic of Legislative Decree No. 13-2001 of 25 April (during the direct contacts mission) and Legislative Decree No. 18-2001 of 14 May, which settle a number of issues raised by the Committee. Specifically, these Legislative Decrees:

- eliminate the strict supervision of trade union activities by the Government (section 211 of the Labour Code);
- eliminate the requirement that members of a trade union executive committee must have no criminal record and must be able to read and write (former sections 220 and 223);
- eliminate the obligation to obtain a two-thirds majority of the members of a trade union in order to call a strike (former section 222) and instead provides for a majority of 50 per cent plus one of the members making up the quorum of the assembly;
- eliminate the requirement, in order to call a strike, of at least two-thirds of the workers employed in the enterprise (former section 241) and instead provides for 50 per cent plus one of the workers employed in the enterprise, excluding trusted workers and workers representing the employer. The Committee nonetheless points out that only the votes cast should be counted in calculating the majority and that the quorum should be set at a reasonable level;

- eliminate the prohibition on strikes or suspension of work by (1) agricultural workers during harvests (former section 243(a)), and (2) workers of enterprises or services whose interruption would, in the opinion of the Government, seriously affect the national economy (section 243), so that it is now possible for the President of the Republic to suspend a strike only when it seriously affects the activities and public services essential for the country (new final paragraph of section 243); in essential public services, the parties and the judicial authority participate in determining the minimum service;
- repeal the provision ordering the arrest and trial of anyone publicly attempting a strike or unlawful work stoppage (former section 257); and
- eliminate the requirement for the courts (in the event of unlawful strikes or work stoppages) to order the national police to ensure continuity of work (former section 255) and instead provides that the courts "may" order and execute precautionary measures to ensure the continuity of activities and the right to work of persons wishing to work;
- eliminate (implicitly, by virtue of the new section 222 of the Labour Code) the requirement of two-thirds of union members in order to sign a draft collective agreement, which had been provided for in section 2(d) of the Regulation of 19 May 1994 concerning collective agreements.

The Committee observes, however, that the abovementioned legislative decrees do not cover other provisions of the legislation which are not in conformity with the Convention, namely:

- the requirement of being Guatemalan in order to establish a provisional trade union executive committee (it should be noted that this requirement derives from the National Constitution); and
- the requirement to be actually working in the enterprise or the occupation in order to be eligible for trade union office (sections 220 and 223 of the Code).

The Committee requests that the Government take steps to bring the legislation fully into conformity with the Convention on these points.

With regard to the provision of the Penal Code imposing a penalty of imprisonment of from one to five years for anyone engaged in acts for the purpose of paralysing or disrupting the running of enterprises which contribute to the economic development of the country with the intention of causing damage to national production (section 390(2) of the Penal Code), the Committee asks the Government to state whether, with the repeal of section 257 of the Labour Code, which provided for the arrest and trial of persons publicly attempting unlawful strikes, section 390(2) of the Penal Code has ceased to apply in the event of strikes.

As regards the imposition of compulsory arbitration without the possibility of resorting to a strike in public services which are not essential in the strict sense of the term, such as public transport, energy provision, and the prohibition of sympathy strikes by trade unions (section 4(d), (e) and (g) of Legislative Decree No. 71-86, amended by Legislative Decree No. 35-96 of 27 May 1996), the Committee requests that the Government indicate, in the light of the new version of section 243 and its definition of essential services in which a minimum service may be imposed (now limited to circumstances endangering the life, personal safety or health of the whole or part of the population), whether the restrictions of Legislative Decree No. 35-96 have, by implication, been repealed.

Practical application

The Committee asks the Government to comment on the assertion by the trade unions that there have been no instances of legal strikes in recent years.

The Committee notes the murders, acts of violence and death threats against trade union members reported in Case No. 1970, examined by the Committee on Freedom of Association and the conclusions of the mission report in this connection. The Committee emphasizes that trade union rights can be exercised only in a climate which is free of violence and pressure. It expresses the very firm hope that the Government will make every effort to ensure effective observance of human rights and of the fundamental freedoms essential to the exercise of trade union rights.

Haiti (ratification: 1979)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In its previous comments, the Committee had noted the Government's intention to bring its legislation into conformity with the Convention with ILO technical assistance.
>
> The Committee recalls that, for many years, its comments have referred to the need:
>
> - to repeal or amend section 236bis of the Penal Code, which requires that government approval be obtained to establish an association of more than 20 persons; section 34 of the Decree of 4 November 1983, which confers wide powers on the Government to supervise trade unions; and sections 185, 190, 199, 200 and 206 of the Labour Code, which impose compulsory arbitration at the request of one party to end a strike thus imposing excessive restrictions on the right to strike;
> - to give legal recognition to the right to organize of public servants, in order to bring its legislation into conformity with section 35(3) and (4) of the 1987 Constitution, which provides constitutional guarantees of the freedom of workers in the public and private sectors and recognizes their right to strike, while no specific legislation has been adopted in this respect.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Honduras (ratification: 1956)

The Committee notes the Government's report and recalls that its previous comments referred to:

- the exclusion from the scope of the Labour Code, and thus from the rights and guarantees of the Convention, of workers in certain agricultural or stock-raising enterprises (section 2(1));
- the prohibition of more than one trade union in a single enterprise, institution or establishment (section 472);
- the requirement of more than 30 workers to constitute a trade union (section 475);
- the requirement that the officers of a trade union, federation or confederation must be Honduran (sections 510(a) and 541(a)), be engaged in the corresponding

activity (sections 510(c) and 541(c)) and be able to read and write (sections 510(d) and 541(d));

- restrictions on the right to strike, namely:
  - the requirement of a two-thirds majority of the votes of the total membership of the trade union organization in order to call a strike (sections 495 and 563);
  - the ban on strikes being called by federations and confederations (section 537);
  - the power of the Ministry of Labour and Social Security to end disputes in the petroleum production, refining, transport and distribution services (section 555(2));
  - the need for government authorization or a six-month period of notice for any suspension or stoppage of work in public services that do not depend directly or indirectly on the State (section 558); and
  - the submission to compulsory arbitration, without the possibility of calling a strike for as long as the arbitration award is in force (two years), of collective disputes in public services which are not essential in the strict sense of the term (sections 554(2) and (7), 820 and 826).

Exclusion from the scope of the Labour Code, and thus from the rights and guarantees of the Convention, of workers in certain agricultural or stock-raising enterprises (section 2(1))

The Committee regrets that the Government does not reply specifically to the comments that the Committee has made in previous years on this matter. The Committee therefore expresses the firm hope that in the near future this legal restriction will be abolished. In this respect, the Committee hopes that this amendment will be introduced in the context of the reform of the labour legislation to which the Government refers.

The prohibition of more than one trade union in a single enterprise, institution or establishment (section 472)

The Committee notes the Government's indication that, from an economic and labour point of view, it is not appropriate for workers to establish two or more organizations in the same enterprise and that the representatives of workers and employers have been consulted on this matter and have themselves indicated that the existence of two or more organizations would lead to anarchy and duplication, as well as uncertainty among workers. The Committee recalls that Convention No. 87 envisages trade union pluralism, which should remain possible in all cases. The law should not therefore institutionalize a factual monopoly, even in a situation where it has been agreed to at some point by all workers. Indeed, the workers should still remain free to choose to set up unions outside the established structures, should they so wish (see General Survey on freedom of association and collective bargaining, 1994, paragraph 96).

Requirement of 30 workers to constitute a trade union (section 475)

The Committee notes the Government's indication that the above provision will be subject to tripartite consultation in the context of the forthcoming reforms of the Labour Code.

Requirement that the officers of a trade union, federation or confederation must be Honduran (sections 510(a) and 541(a)), be engaged in the corresponding activity (sections 510(c) and 541(c)) and be able to read and write (sections 510(d) and 541(d))

The Committee notes the Government's indication that the preliminary draft of the Labour Code has taken into account the observations made on many occasions on these matters. The Committee nevertheless notes that section 504, as amended by Decree No. 760 of 25 May 1979, removed the restriction that 90 per cent of trade union members must be of Honduran nationality, thereby securing for foreign nationals the right to join any trade union organization, but that it provides that foreign nationals shall not be eligible for trade union office. In this respect, the Committee points out that provisions on nationality which are too strict could deprive some workers of the right to elect their representatives in full freedom. In this respect, the Committee considers that the national legislation should allow foreign workers to take up trade union office, at least after a reasonable period of residence in the host country. With regard to the requirement to be engaged in the corresponding activity, the Committee also considers that this provision may infringe the right of organizations to elect representatives in full freedom, as well as running the risk that employers may dismiss trade union officers, which would deprive them of their trade union office. It would be desirable to make the legislation more flexible, either by admitting as candidates persons who have previously been employed in the occupation concerned, or by exempting from the occupational requirement a reasonable proportion of the officers of an organization (see General Survey, paragraphs 117 and 118).

Restrictions on the right to strike

- With regard to the ban on strikes being called by federations and confederations (section 537), the Committee recalls that, in accordance with *Articles 3, 5 and 6 of the Convention*, workers' organizations, as well as the federations and confederations that they have established or joined, have the right to organize their activities and to formulate their programmes.
- With regard to the requirement of a two-thirds majority of the votes of the total membership of the trade union organization to call a strike (sections 495 and 563), the Committee notes the Government's expression of its intention to hold tripartite consultations and that it will take into account the observations made by the Committee. The Committee hopes that the above observations and the outcome of the tripartite consultations on this matter will be taken into account in the context of the forthcoming reforms of the Labour Code.
- With regard to the power of the Minister of Labour and Social Security to end disputes in the petroleum production, refining, transport and distribution services (section 555(2)), the need for government authorization or a six-month period of

notice for any suspension or stoppage of work in public services that do not depend directly or indirectly on the State (section 558) and the submission to compulsory arbitration, without the possibility of calling a strike for as long as the arbitration award is in force (two years), of collective disputes in public services which are not essential in the strict sense of the term (sections 554(2) and (7), 820 and 826), the Committee notes the information provided by the Government that the above provisions have been submitted to tripartite consultation in the context of the reforms to the labour legislation.

The Committee expresses the firm hope that in the very near future appropriate measures will be taken to amend the legislative provisions referred to above in order to bring them into conformity with the requirements of the Convention. The Committee requests that the Government provide copies of the preliminary draft texts mentioned and supply information in its next report on any developments in this respect. The Committee draws the Government's attention to the availability of ILO technical assistance.

Jamaica (ratification: 1962)

The Committee notes the information provided in the Government's report.

The Committee recalls that for a number of years it has been commenting on the need to amend sections 9, 10 and 11A of the Labour Relations and Industrial Disputes Act No. 14 of 1975, as amended ("the Act"), which empower the Minister to submit an industrial dispute to compulsory arbitration and hence to terminate any strike. The Committee has noted in the past that the Minister's powers to refer an industrial dispute to the Industrial Dispute Tribunal are too broad, the list of essential services contained in the first schedule to the Act is too extensive, and the notion of a strike which is likely to be "gravely injurious to the national interests" can be interpreted overly broadly. As in previous reports, the Government states that it is making significant progress in reforming the Act through the Labour Advisory Committee. It once again informs the Committee that an amendment to the first schedule of the Act has been proposed, which would result in the deletion of the following services from the list of those deemed to be essential: public passenger transport services; telephone services; any business whose main functions consist of the issue and redemption of security, government securities and the trading in such securities; management of the official reserves of the country, providing banking services to the Government; and air transport services for the carriage of passengers, baggage, mail or cargo destined to or from Jamaica or within Jamaica. With respect to the power of the Minister to refer an industrial dispute to compulsory arbitration, as in its previous reports, the Government states that the Committee's concern has been noted and that this section is still in the process of revision.

The Committee once again recalls that the provisions of the Act can be broadly interpreted in such a way as to permit the use of compulsory arbitration in situations other than those involving essential services or acute national crises. It therefore expresses the firm hope that the list of essential services will be amended in the near future so as to refer only to essential services in the strict sense of the term; namely, those services, the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see General Survey on freedom of association and collective bargaining, 1994, paragraph 159). The discretion of the

Minister to amend the first schedule should also be limited by such criteria. Furthermore, the Committee recalls the need to amend sections 9, 10, and 11A of the Act which provide the Minister with extensive powers to refer an industrial dispute to the Tribunal. It once again recalls that the imposition of compulsory arbitration should be limited to essential services or situations of acute national crises; otherwise, recourse to compulsory arbitration should only be possible at the request of both parties to the dispute. The Committee requests that the Government indicate in its next report any progress made in this regard and provide copies of any draft texts proposed to amend the legislation on the abovementioned points.

Japan (ratification: 1965)

The Committee takes note of the recent comments made by the Zentoitsu Workers Union and endorsed by other workers' organizations. The Committee requests that the Government transmit, with its next report, its observations in this regard so that it may examine these points, as well as those raised in its previous comments, at its next meeting.

Kuwait (ratification: 1961)

The Committee notes the Government's report. It also notes the draft amendments to the Private Sector Labour Code provided by the Government as well as the report of the ILO mission, which recently visited the country.

The Committee recalls that it has commented for several years on the need to repeal or amend the following provisions of the Labour Code (Act No. 38 of 1964), which are contrary to the Convention.

Article 2 of the Convention

- The exclusion from the scope of the Code, and thus from the protection afforded by the Convention, of domestic workers (section 2 of the Code as modified in 1996).
- The requirement of at least 100 workers to establish a trade union (section 71) and ten employers to form an association (section 86).
- The prohibition to join a trade union for individuals of under 18 years of age (section 72).
- The requirement of five years' residence in Kuwait for non-national workers before they may join a trade union, and the requirement that a certificate of moral standing and good conduct delivered by the competent authority be obtained in order to join a trade union (section 72).
- The requirement that a certificate be obtained from the Minister of the Interior stating that he has no objection to any of the founding members, before a trade union may be established, and the requirement that at least 15 members must be Kuwaiti in order to found a trade union (section 74).
- The prohibition to establish more than one trade union per establishment, enterprise or activity (section 71).

Article 3

- The ban on the right to vote and to be elected to trade union office for unionized workers not of Kuwaiti nationality, except to elect a representative having the right only to voice their opinions with the Kuwaiti union officers (section 72).
- The prohibition on trade unions from engaging in any political activity (section 73).
- The wide powers of supervision of the authorities over trade union books and registers (section 76).
- The reversion of trade union assets to the Ministry of Social Affairs and Labour in the event of dissolution (section 77).

Articles 5 and 6

- The restriction imposed on trade unions to join federations only where the activities are identical, or where industries are producing the same goods or supplying similar services (section 79).
- The prohibition for organizations and their federations to establish more than one general confederation (section 80).
- The single trade union system established under sections 71, 79 and 80, read together.

The Committee notes with interest that in the latest draft amendments to the Labour Code of 1964 provided by the Government, it appears that all the sections which previously imposed trade union monopoly at the enterprise and national level, have been removed. It further notes that section 95 of the draft amendments provides that the provisions of the law are applicable to the workers in the private sector, as well as workers in both government and oil sectors provided they shall not conflict with the laws regulating them. In this regard, while noting the positive steps taken by the Government, the Committee would request it to confirm that the right to organize is indeed granted to civil servants and workers in the oil sectors.

Article 2. The right to organize of domestic workers

The Committee notes the Government's information according to which it has taken into account domestic workers in the draft Labour Code and that section 5 of the new draft specifies that the minister shall issue an order on the rules that regulate the relations between employers and domestic workers. In this regard, the Committee recalls that *Article 2* of the Convention applies to all workers without distinction, including domestic workers, who should therefore be covered by the guarantees it affords and should have the right to establish and join occupational organizations (see 1994 General Survey on freedom of association and collective bargaining, paragraph 59).

Articles 2 and 3. Trade union rights of migrant workers

The Committee notes that section 96 of the draft amendments provides that all Kuwaiti workers shall have the right to establish trade unions. This provision would appear to be more restrictive than section 72 of the current Labour Code which refers to a five-years' residence requirement in Kuwait for non-nationals to join a trade union. In this respect, the Committee recalls that restrictions on the right to organize based on nationality may, in particular, prevent migrant workers from playing an active role in the defence of their interests, especially in sectors where they are the main source of labour. The right of workers, without distinction whatsoever, to establish and join organizations implies that anyone legally residing in the territory of a given State benefits from the trade union rights provided by the Convention, without any distinction based on nationality (see General Survey, paragraph 63). The Committee therefore requests the Government to indicate the measures taken or envisaged to ensure that foreign workers in Kuwait are guaranteed the right to organize and that they may be eligible for trade union office, at least after a reasonable period of residence (see General Survey, paragraph 118).

Article 3. The right of workers' organizations to organize their administration and activities

With regard to the global prohibition of political activity and the need for approval of the ministry in order to receive gifts or bequests, the Committee notes that these points have not been modified and still appear in section 101 of the draft amendments. The Committee is of the view that legislative provisions which prohibit all political activities for trade unions give rise to serious difficulties with regard to the principles of the Convention. Some degree of flexibility in the legislation is therefore desirable so that a reasonable balance can be achieved between the legitimate interest of organizations in expressing their point of view on matters of economic and social policy affecting their members and workers in general, on the one hand, and the separation of political activities in the strict sense of the term and trade union activities, on the other (see General Survey, paragraph 133). Furthermore, the Committee considers that problems of compatibility with the Convention may arise when the law requires that certain financial operations, such as the receipt of funds abroad, be approved by the public authorities (see General Survey, paragraph 126). The Committee therefore requests the Government to take the necessary measures to ensure that the Labour Code is amended in the light of these principles.

Article 4. The right not to be dissolved by administrative authority

The Committee notes with concern that, under section 104 of the draft amendments, it appears that workers' and employers' organizations may be dissolved by virtue of a decision by the Council of Ministers upon the advice of the competent minister. In this regard, the Committee would first recall that the Labour Code currently in force, as well as previous drafts examined by the Committee, limited dissolution to voluntary dissolution and legal dissolution based on a court ruling. The Committee recalls that the possibility of administrative dissolution as set out in section 104 of the most recent draft involves a serious risk of interference by the authorities in the very existence of organizations and should therefore be accompanied by judicial safeguards, in order to avoid the risk of arbitrary action. While it is preferable for legislation not to allow dissolution or suspension of organizations by administrative authority, if it does, the organization affected by such measures must have the right of appeal to an independent and impartial judicial body which is competent to examine the substance of the case and, where appropriate, to rescind such measure; moreover, the administrative decision should not take effect until a final decision is handed down (see General

Survey, paragraph 185). The Committee therefore trusts that the Government will take the necessary measures to ensure that any administrative dissolution may be appealed to a judicial body and will be accompanied by the above-noted safeguards.

While noting with interest that several of the draft amendments appear to eliminate earlier sections of the Labour Code which were not in conformity with the Convention, and that the Government has submitted a proposal to amend section 71 (concerning the requirement of 100 workers to form a union) of the current Labour Code of 1964 until the new draft Labour Code is adopted, the Committee nevertheless observes that some important discrepancies remain between the draft law and the provisions of the Convention. Therefore, it expresses the firm hope that the necessary measures will be taken in the near future to bring the legislation into conformity with the Convention in respect of the abovementioned issues and trusts that the other points which had been raised in its previous comments will also be fully addressed in the new Code. The Committee requests the Government to indicate in its next report the progress made in this regard and supply copies of any further drafts or adopted version of the Code.

Kyrgyzstan (ratification: 1992)

The Committee notes with regret that since the entry into force in respect of Kyrgyzstan of this Convention in 1993, the Government's first report has not been received. It hopes that a report will be provided for examination by the Committee at its next session and that the report will contain detailed replies to the questions raised in the report form on the application of the Convention, which has been forwarded to the Government.

Lesotho (ratification: 1966)

The Committee notes that the Congress of Lesotho Trade Unions (COLETU) has sent a communication dated 4 November 2001 on the application of the Convention. The Committee requests the Government to send its observations thereon for examination at its next meeting.

Liberia (ratification: 1962)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee recalls that its previous comments concerned the need to amend or repeal:
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> - Decree No. 12 of 30 June 1980 prohibiting strikes;
> - section 4601-A of the Labour Practices Law prohibiting agricultural workers from joining industrial workers' organizations;
> - section 4102, subsections 10 and 11, of the Labour Practices Law providing for the supervision of trade union elections by the Labour Practices Review Board; and
> - section 4506 prohibiting the workers of state enterprises and public service from organizing.
>
> The Committee had recalled that these provisions were contrary to ***Articles 2, 3, 5 and 10 of the Convention.***

> The Committee had noted the indication in a Government's previous report that it had submitted Decree No. 12 prohibiting strikes and all of the remaining provisions above to the national legislature for their repeal. It further noted that the Government had received assurances from the legislature that these repealing Acts would be passed at its then current session. The Committee requests the Government to indicate in its next report the progress made in this regard and to supply copies of any and all of the repealing Acts as soon as they have been adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Mauritania (ratification: 1961)

The Committee notes the information contained in the Government's report. It notes the Government's statement that the draft Labour Code, prepared with the assistance of the ILO, is being studied by the Interministerial Technical Committee. The Committee recalls that the Government has been referring to a draft Labour Code since 1995. It hopes that the new Code will be adopted in the near future and that the Government will take account of the following comments, which the Committee has been making for several years.

Article 3 of the Convention. Right of organizations to elect their representatives in full freedom. The Committee emphasizes once again that section 7 of the Labour Code, as amended by Act No. 93-038 of 20 July 1993, limits the right of access to trade union office to nationals of Mauritania. The Committee recalls that the legislation should be amended to enable organizations to choose their officers in full freedom and to allow foreign workers to take up trade union office, at least after a reasonable period of residence in the host country (see General Survey on freedom of association and collective bargaining, 1994, paragraph 118).

Articles 3 and 10. Right of organizations to organize their activities and to formulate their programmes freely in order to further and defend the interests of their members. The Committee notes once again that sections 39, 40, 45 and 48 of Book IV of the Labour Code which is currently in force permit the prohibition of strikes in the event of referral to compulsory arbitration. It hopes that the Labour Code will be amended to confine the prohibition of strikes solely to the essential services in the strict sense of the term, that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population, or in the event of an acute national crisis.

The Committee again requests that the Government indicate in its next report the progress made towards enactment of the Labour Code.

Republic of Moldova (ratification: 1996)

The Committee takes note with satisfaction of the law on trade unions dated 7 July 2000 which contains no references to an imposed trade union monopoly, in accordance with recent requests from the Committee to ensure the right of workers to establish organizations of their own choosing under *Article 2 of the Convention.*

The Committee is addressing a request concerning certain other points directly to the Government.

Myanmar (ratification: 1955)

The Committee notes with regret that for the third consecutive year, the Government's report has not been received.

The Committee notes the oral information provided by the Government representative to the Conference Committee in 2001, as well as the discussion which took place therein and the resulting special paragraph in the Conference Committee's report for continued failure to implement the Convention.

In its previous comments, the Committee had noted that the drafting of a new State Constitution was under way, as well as the review and redrafting of old labour laws, including the Trade Unions Law. The Committee had recalled, however, that the Government has referred to the drafting of new labour legislation and a new Constitution for several years now. It deplores once again this year that no specific progress or developments have been communicated to the Committee in this regard.

The Committee recalls that it has been commenting upon the continued failure to apply this Convention, both in law and in practice, for over 40 years. In its previous comments, it had urged the Government, in particular, to adopt the necessary measures to ensure the right of workers to establish, without previous authorization, and to join, subject only to the rules of the organizations concerned, first-level unions, federations and confederations of their own choosing for the furtherance and defence of their interests and to ensure the right of first-level unions, of federations and of confederations to affiliate with international organizations *(Articles 2, 5 and 6 of the Convention).*

The Committee deeply deplores the lack of cooperation on the part of the Government, manifested in particular by a total absence of reports under this Convention over the past years despite a serious failure in applying its provisions.

The Committee must once again reiterate the urgent need for the Government to adopt the necessary measures to ensure fully the right to organize, and the right to affiliate with international organizations, without impediment. Furthermore, it once again asks the Government to furnish with its next report a copy of the most recent draft revision of the Trade Unions Law so that it might assess the draft's conformity with the Convention.

Nigeria (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> ***Article 2 of the Convention (the right of workers to form and join organizations of their own choosing)***
>
> ***(a) Legislatively imposed trade union monopoly and the restructuring of industrial unions under Decree No. 4 of 1996***
>
> The Committee notes that under section 3(2) of the Trade Unions Act no trade union shall be registered to represent workers or employers in a place where a trade union already exists. Furthermore, the Committee notes that section 33(2) of the Act which deems all registered trade unions to be affiliated to the Central Labour Organisation which is named in

the law (section 33(1)) has not been amended. The Committee requests the Government to indicate the measures envisaged to amend the Trade Unions Act in order to ensure that workers have the right to form and join the union of their own choosing at all levels outside the trade union specifically mentioned in the law if they so wish.

(b) Organizing in export processing zones

Noting that section 4(e) of the Export Processing Zones Decree, 1992, sets forth the functions and responsibilities of the Export Processing Zones Authority to include the resolution of disputes between "employers and employees" (rather than workers' organizations or unions) in the zone and that, under section 13(1), no person shall enter, remain in or reside in a zone without the prior permission of the Authority, the Committee requests the Government to indicate the measures taken to ensure that zone workers may form and join the organization of their own choosing in the furtherance and defence of their occupational interests and, in particular, the measures taken to ensure that representatives of workers' organizations may have reasonable access to the zones so that trade unions can communicate with workers in order to apprise them of the potential advantages of unionization.

(c) Further obstacles

The Committee recalls that its previous comments also concerned the following discrepancies in the Trade Unions Act in respect of the right for workers to form organizations of their own choosing without previous authorization:

- section 3(1) of the Act sets the excessively high requirement of 50 workers to form a trade union;
- section 11 of the Act denies the right to organize to employees in the Customs and Excise Department, the Immigration Department, the Prison Services, the Nigerian Security Printing and Minting Company, the Central Bank of Nigeria and Nigerian External Telecommunications.

It once again requests the Government to indicate the measures envisaged to amend the Trade Unions Act in respect of these matters in order to ensure full compliance with Article 2.

Article 3 (the right to elect officers in full freedom, to organize their administration and activities and to formulate programmes without government interference)

(a) The right to strike

1. *Export processing zones.* The Committee notes that section 18(5) of the Export Processing Zones Act provides that there shall be no strikes or lockouts for a period of ten years following the commencement of operations within a zone. The Committee recalls that such a prohibition is incompatible with the provisions of the Convention (see General Survey on freedom of association and collective bargaining, 1994, paragraph 169) and requests the Government to indicate the measures taken or envisaged to ensure that workers, including those in export processing zones, have the right to establish organizations of their own choosing and that such organizations have the right to organize their activities and to formulate their programmes without interference by the public authorities.

2. *Conditional check-off facilities.* The Committee notes that section 5 of the Trade Unions (Amendment) Decree No. 26 of 1996 which makes check-off payments to unions

conditional upon the inclusion of "no-strike" clauses in collective agreements has not yet been repealed but has only been amended by Decree No. 1 to refer also to "no lock-out" clauses. The Committee considers that such a legislative requirement hinders the right of workers' organizations to formulate their programmes and activities without interference by the public authorities. It therefore requests the Government to indicate the measures taken or envisaged to allow workers' and employers' organizations to bargain freely on such an issue.

(b) Further obstacles

The Committee recalls its previous comments concerning the need to amend:

- the possibility of imposing compulsory arbitration (other than in cases of essential services in the strict sense of the term and for public servants exercising authority in the name of the State or in the case of acute national crisis) under penalty of a fine or six months' imprisonment for any person failing to comply with a final award issued by the National Industrial Court (section 7 of Decree No. 7 of 1976 amending the Trade Disputes Act);
- the broad powers of the Registrar to supervise the union accounts at any time (sections 39 and 40 of the Trade Unions Act) to ensure that such a power is limited to the obligation of submitting periodic financial reports, or in order to investigate a complaint.

The Committee requests the Government to indicate the measures envisaged to amend these provisions in order to ensure full conformity with the principles of freedom of association.

Article 4 (cancellation of registration by administrative authority)

The Committee notes the amendment made in 1996 to section 7(9) of the Trade Unions Act giving broad authority to the Minister to revoke the certification of any registered trade union due to "overriding public interest". Recalling that organizations of workers and employers should not be liable to dissolution by administrative authorities, the Committee requests the Government to amend the Act by repealing the broad authority of the Minister to cancel registration so as to bring the legislation into full conformity with this Article of the Convention.

Articles 5 and 6 (international affiliation)

The Committee notes, that the Trade Unions (International Affiliation) (Amendment) Decree No. 2 of 1999 still provides that an application for affiliation must be submitted with details to the Minister for approval. While noting that a refusal of an application for international affiliation can be appealed to the National Industrial Court, the Committee considers that a provision which requires ministerial approval for international affiliation on the basis of a detailed application infringes on the rights of workers' organizations to affiliate with international workers' organizations freely. It therefore requests the Government to indicate the measures taken or envisaged to amend this Decree so that workers' organizations may affiliate with the international workers' organization of their own choosing free from interference by the public authorities.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Norway (ratification: 1949)

The Committee takes note of the information contained in a communication of the Independent Unions' Forum (UFF) and the comments thereon made by the Government. It recalls that its previous comments concerned the following.

Articles 3 and 10 of the Convention. In its previous comments, the Committee had expressed the hope that any restrictions imposed on the right of workers' organizations to organize their activities and formulate their programmes for furthering and defending their interests would be removed and that in particular, the possibility of imposing legislative intervention in respect of industrial action would be limited to essential services in the strict sense of the term, that is to say, those the interruption of which would endanger the life, personal safety or health of whole or part of the population, or to public servants exercising authority in the name of the State. The Committee had asked the Government to keep it informed of any further developments in this regard. In particular, the Committee had asked the Government to provide a copy of the report of the national committee, consisting of all major workers' and employers' organizations, appointed by the Government to review the system of collective bargaining and the settlement of industrial disputes.

The Committee notes the comments made by the Independent Unions' Forum (UFF) to the effect that specific proposals made by the national committee would bring the Labour Dispute Act into contradiction with ILO Conventions. These proposals concern the power of the mediator appointed under the Labour Disputes Act both to order a ballot on a proposal for a settlement and to link ballots so that the acceptance of a settlement proposal depends on the total voting in all the sectors concerned. In this regard, the Committee notes the observations made by the Government to the effect that it did not wish, as it would be premature, to comment on the proposals made by the national committee as its report was to be subjected to a broad consultation involving all the social partners, and that following these consultations, the Government would take a decision regarding its submission to Parliament.

The Committee further notes however the Government's statement in its report concerning the application of Convention No. 98 that if the recommendation of the national committee whereby the mediator would be empowered to order an organization to hold a ballot over a proposal for a settlement was implemented, the provision of the Labour Dispute Act whereby the mediator can link ballots would be reactivated.

While duly noting that the Government has not yet taken a decision on the proposals of the national committee, the Committee wishes to recall that a proposal whereby the mediator can order a vote, and additionally link the ballots of the trade unions concerned, may lead a workers' organization to be bound by a majority decision over a settlement proposal against their will thereby impairing their right under the Convention to formulate their programme and activities for the furtherance and the defence of their members' interests, including the possibility of having recourse to industrial action. The Committee requests that the Government keeps it informed of any further developments and trusts that the Government will fully take into account the abovementioned concerns in any measure it will take.

Pakistan (ratification: 1951)

The Committee notes the information provided in the Government's report. It also notes the statement of the Government representative to the Conference Committee on the Application of Standards in 2001 and the discussions which ensued thereafter. It also notes the conclusions of the Committee on Freedom of Association in Case No. 2096 (326th Report, approved by the Governing Body at its 282nd Session in November 2001).

Article 2 of the Convention

1. The Committee notes from the information provided in the Government's report that the ban on trade union activities in the Karachi Electric Supply Corporation (KESC) has not been lifted. The Government states that due to the adverse financial situation of the KESC, it may take more time for the restoration of trade union activities in the KESC. The Committee notes with regret, that the Government repeats its previous argument that it will restore trade union rights in the KESC as soon as the enterprise becomes viable and productive again. The Committee considers that the viability of an enterprise must not be a precondition for guaranteeing fundamental rights on freedom of association. The Committee once again requests the Government to lift the ban on trade union activities in the KESC and to restore the trade union and collective bargaining rights of KESC workers without delay and to keep it informed of measures taken in this regard.

2. The Committee notes the indication in the Government's latest report that it has authorized the Export Processing Zones Authority (EPZA) to frame draft labour legislation and that draft labour laws are being finalized by the Authority and sent to the relevant ministries of the federal Government for vetting, clearance and enactment. The Committee trusts that this legislation will ensure the rights under the Convention to the EPZ workers and requests the Government to indicate in its next report the progress made in this regard and to transmit a copy of any relevant draft texts or adopted legislation.

3. As concerns the exclusion from the definition of workers in the 1969 Industrial Relations Ordinance (IRO) of persons employed in an administrative or managerial capacity whose wages exceed 800 rupees per month, the Committee regrets that no information was provided in this regard. It once again requests the Government to indicate the progress made in amending this definition so as to ensure that only those with true managerial and supervisory capacity may eventually be excluded from workers' unions.

4. Finally, as concerns the exclusion from the IRO of public servants of grade 16 and above, and of forestry, railway and hospital workers, the Committee requests the Government to provide information on measures taken or envisaged to ensure the rights guaranteed by the Convention to these category of workers.

Article 3

1. *Right to elect officers freely.* The Committee notes the information provided by the Government concerning section 27-B of the Banking Companies Ordinance of 1962 which restricts the possibility of becoming an officer of a bank union only to employees

of the bank in question, under penalty of up to three years' imprisonment. The Committee once again recalls that provisions of this type infringe the right of workers' organizations to elect representatives in full freedom by preventing qualified persons, such as full-time union officers or pensioners, from carrying out union duties or by depriving unions of the benefit of the experience of certain officers when they are unable to provide enough qualified persons among their own ranks. When national legislation imposes conditions of this kind on all trade union leaders, there is also a real risk of interference by the employer through the dismissal of trade union officers, which deprives them of their trade union office. In order to bring such legislation into conformity with the Convention, it would be desirable to make it more flexible, either by admitting as candidates persons who have previously been employed in the occupation concerned, or by exempting from the occupational requirement a reasonable proportion of the officers of an organization (see 1994 General Survey on freedom of association and collective bargaining, paragraph 117). Therefore, the Committee once again requests the Government to amend its legislation in order to bring it into conformity with the Convention, either by exempting from the occupational requirement a reasonable proportion of the officers of an organization, or by admitting as candidates persons who have been previously employed in the banking company.

2. *Right to organize activities and administration.* As regards the measures taken or envisaged to ensure that the employees of Civil Aviation and of Pakistan Television and Broadcasting Corporations (PTV and PBC) may have recourse to industrial action without penalty, the Committee notes with interest information provided by the Government that in accordance with the directions of the Supreme Court of Pakistan, the parallel legal framework regulating Employees Management Relations, has been drafted by the Civil Aviation Authority (CAA) and is likely to be notified soon. According to the Government, CAA employees have not been treated as essential services in the strict sense of the term. The Committee further notes with interest that the PBC have allowed union formation by employees from scales 1 to 4, who may engage in trade union activities, including the right to strike, provided they ensure a minimum service. Furthermore, the PBC has recommended that 50 per cent of employees of scales 5 and 6 may go on strike. The Committee requests the Government to indicate in its next report whether the minimum services established at the PBC came about as a result of an agreement between the workers and employers concerned and to indicate any further developments enabling civil aviation and PTV employees to organize their activities without interference from the public authorities, including possible recourse to industrial action.

3. As regards the public utility and essential services, in its previous comments the Committee noted that sections 4 and 7 of the Pakistan Essential Services (Maintenance) Act of 1952 provide for sanctions with up to one year imprisonment of any person engaged in any employment declared applicable by the Act (which includes services beyond those which can be considered essential in the strict sense of the term) who disobeys a Government order not to depart from specified areas and that section 33 of the IRO permits the Government to issue an order prohibiting strikes in respect of any of the public utility services. While noting the indication in the Government's report that these restrictions were made keeping in view the vital importance of certain services in the economic and social life of the nation, the Committee notes that the legislation continues to apply to services which cannot be considered to be essential in the strict

sense of the term (that is, services the interruption of which would endanger the life, personal safety or health of whole or part of the population and to public servants exercising authority in the name of the State (see General Survey, paragraphs 158-160)). The Committee further notes that, while the Government states that postal workers are federal government servants and would therefore not be covered by the IRO, postal services, railways and airways still figure on the list of public utility services in the Schedule to the IRO and would therefore appear to be restricted in their exercise of industrial action. The Committee once again urges the Government to amend the Pakistan Essential Services (Maintenance) Act and section 33 of the IRO so as to ensure that the prohibition of industrial action will be limited to essential services in the strict sense of the term or to public servants exercising authority in the name of the State (such as those working in Government, ministries, judicial or legislative bodies, but not including employees in state enterprises or institutions).

Finally, the Committee once again requests the Government to indicate whether Presidential Ordinance No. IV of 1999, which amends the Anti-Terrorism Act by penalizing the creation of civil commotion, including illegal strikes or go-slows, with up to seven years' imprisonment, is still applicable.

In addition, a request regarding certain points is being addressed directly to the Government.

Panama (ratification: 1958)

The Committee notes the Government's report, the discussion in the Conference Committee on the application of the Convention and the conclusions and recommendations of the Committee on Freedom of Association in Case No. 1931 (see 318th Report, paragraphs 353-371).

The Committee recalls that its previous comments referred to the following provisions:

- the power of the Regional or General Labour Directorate to submit labour disputes to compulsory arbitration in order to stop a strike in a public enterprise, including those which cannot be considered essential services in the strict sense of the term (including food and transportation, under sections 486 and 452(3) of the Labour Code);
- sections 174 and 178, final paragraph, of Act No. 9 ("establishing and regulating administrative careers"), of 1994, which lay down respectively that there shall not be more than one association in an institution, and that associations may have provincial or regional chapters, but can have no more than one chapter per province;
- section 41 of Act No. 44 of 1995 (amending section 344 of the Labour Code), which requires an excessively high number of members to establish an employers' occupational organization (10) and an even higher number to establish a workers' organization (40) at the enterprise level;
- article 64 of the Constitution, which requires Panamanian nationality to serve on the executive board of a trade union;
- the obligation to provide minimum services with 50 per cent of the personnel in establishments which provide essential public services, which go beyond essential

services in the strict sense of the term and which include transport, and the penalty of the summary dismissal of public servants for failing to comply with the requirement respecting minimum services in the event of a strike (sections 185 and 152(14) of Act No. 99 of 1994); and

- legislation interfering in the activities of employers' and workers' organizations (sections 452(2), 493(1) and 497 of the Labour Code) (closure of the enterprise in the event of a strike and compulsory arbitration at the request of one of the parties).

The Committee also notes the comments of the National Council of Organized Workers (CONATO) concerning the application of the Convention, which refer to the numerical requirements to establish trade union organizations in the public and private sectors and the type of organizations which can be established, the many restrictions in law and practice on the right to strike (the administrative classification of its legality in practice; the use of conciliation to prevent lawful strikes; denial of the right to strike to federations and confederations; the imposition of minimum services which are too high in the event of a strike; restrictions on strikes in the maritime sector, in export processing zones and in enterprises which have been established for less than two years; the imposition of compulsory arbitration in certain cases; the requirement of a majority of workers in the enterprise for a lawful strike; the illegality of strikes not related to a collective dispute with an enterprise, etc.); cases of interference by the authorities in the internal affairs of trade unions; cases of the denial of access by trade union leaders to their jobs in ports; and, administrative refusal of the affiliation of a federation to a confederation; etc.

The Committee notes the Government's comments denying or commenting on CONATO's allegations from the point of view of law and practice, and even recognizing that the minimum number of public servants required to establish a trade union association in the public administration is high.

In view of the high number of specific issues and the complexity of the questions raised concerning the application of the Convention, the Committee suggests that the Government should promote tripartite discussions on these matters. The Committee further recommends that, after consultations with the employers' and workers' organizations, the Government consider the possibility of jointly requesting the technical assistance of the ILO. The Committee would then be able to evaluate the application of the Convention in full knowledge of all the facts and of possible solutions to the problems raised.

Paraguay (ratification: 1962)

The Committee notes that the Government's report has not been received. It recalls that its previous observations referred to the following points:

- the requirement of too high a number of workers (300) to establish a branch trade union (section 292 of the Labour Code);
- the imposition of excessive requirements to be able to hold office in the executive body of a trade union (sections 298(a) and 293(d) of the Labour Code);
- the submission of collective disputes to compulsory arbitration (sections 284 to 320 of the Code of Labour Procedure);

- the restriction on workers, even if they have more than one half-time employment contract, from being able to join more than one union, either at the enterprise, industry, occupation or trade, or institutional level (section 293(c) of the Labour Code);
- the requirement that trade unions must comply with all requests for consultations or reports from the labour authorities (sections 290(f) and 304(c) of the Labour Code);
- the requirement that, for a strike to be called, its sole purpose must be the direct and exclusive protection of the workers' occupational interests (sections 358 and 376(a) of the Labour Code), and the obligation to ensure a minimum service in the event of a strike in public services which are essential to the community, without consulting the workers' and employers' organizations concerned (section 362 of the Labour Code).

The Committee recalls that, during the mission which took place in Paraguay in October 2000, a draft Bill was prepared to amend or repeal the legislative provisions criticized by the Committee. In practical terms, the provisions of the draft Bill:

(1) reduce from 300 to 50 the minimum number of workers to establish a branch trade union (section 292 of the Labour Code);

(2) allow workers engaged in more than one occupation in various enterprises or sectors to join the trade unions corresponding to each of the categories of work that they perform and, at the same time, if they so wish, to join an enterprise union and a sectoral union (section 293(c) of the Labour Code);

(3) make it necessary, to be a member of the executive body of a trade union, to be an active member of the union, unless the statutes allow other categories of members, and provide that the executive offices of the trade union are to be removed by a decision of the general assembly in accordance with the statutes of the trade union (sections 293(d) and 298(a) of the Labour Code);

(4) oblige trade unions to comply with all requests for consultations or reports addressed to them by the competent labour authorities only in respect of their annual financial statements, as well as with requests for reports by the labour authorities in the event of denunciations by members concerning violations of the law or of the trade union's statutes – the representatives of the Single Confederation of Workers (CUT), the Paraguayan Central of Workers (CPT), the General Confederation of Labour (CGT), and the Trade Union Confederation of State Workers of Paraguay (CESITEP) expressed a preference for establishing the sole possibility of requesting reports in the event of denunciations by members (section 290(f) and section 304(c) of the Labour Code);

(5) define a strike as the temporary collective and concerted suspension of work, at the initiative of the workers and their organizations, to defend the interests of the workers, as set out in section 283 of the Code (the examination, defence, furtherance and protection of occupational interests, as well as the social, economic, cultural and moral improvement of members) (section 358 of the Labour Code);

(6) add at the end of section 362 of the Labour Code a provision that, in the absence of agreement, the modalities for the provision of minimum services in the event of a

strike and the number of workers who are to ensure such services shall be determined by the Ministry of Labour with the participation of the workers' and employers' organizations from the sector, with administrative decisions which are deemed to be excessive being subject to judicial review; furthermore, where the State is a party to the dispute, minimum services shall be determined by the judicial authority;

(7) repeal sections 284 to 320 of the Code of Labour Procedure, respecting the submission of collective disputes to compulsory arbitration (the provisions in question are not currently applied on the grounds that article 97 of the Constitution only provides for voluntary arbitration); and

(8) prohibit trade unions from being involved in matters relating purely to party politics and electoral movements which are unrelated to furthering and defending the interests of the workers (section 305(a) of the Labour Code).

The Committee expresses the firm hope that the draft text that was prepared will be adopted in the near future. The Committee trusts that the Government will provide information in the near future on any developments in this respect.

Furthermore, the Committee is addressing a request directly to the Government in relation to the comments of the CGT, the CUT and the CESITEP, in which they raise objections to a Bill respecting the public service which, in their view, is not compatible with the guarantees set out in the Convention.

Philippines (ratification: 1953)

The Committee takes note of the information provided by the Government in its latest report.

The Committee notes with interest that according to the Government's report, the Congressional Commission on Labor has made recommendations with respect to its comprehensive review of the Labor Code, which would respond to the previous comments made by the Committee in respect of section 263(g) of the Labor Code, by limiting the jurisdiction of the Secretary of Labor on disputes involving national interest to disputes involving essential services only as defined by the supervisory bodies of the ILO. The Government adds that this recommendation will likely be implemented through amendments to the existing Labor Code. The Committee requests that the Government keep it informed of the progress made in this respect and transmit a copy of the amendments as soon as they have been adopted.

Noting that the Government's report contains no additional information in respect of the other points raised in its last observation, the Committee recalls its previous comments concerning the following discrepancies between the national legislation and the requirements of the Convention:

Articles 2 and 5 of the Convention

- The need to review the requirement that at least 20 per cent of workers in a bargaining unit are members of a union (section 234(c) of the Labor Code).
- The requirement of too high a number of unions (ten) to establish a federation or a national union (section 237(a)).

- The prohibition of aliens (other than those with valid permits if the same rights are guaranteed to Filipino workers in the country of the alien workers), from engaging in any trade union activity (section 269) under the penalty of deportation (section 272(b)), and the provisions of the Department Order No. 9 amending the rules implementing Book V of the Labor Code, which confirm such restrictions.

Article 3

- The following provisions which set forth disproportionate sanctions for participation in an illegal strike: the dismissal of trade union officers and penal liability to a maximum of three years (sections 264(a) and 272(a) of the Labor Code) and the penalty of "reclusion perpetual" to death for organizers or leaders of any meeting held for propaganda purposes against the Government, the word "meeting" being understood to include picketing of labour groups (section 146 of the revised Penal Code).

Noting the Government's reference to the ongoing comprehensive review of the Labor Code, the Committee expresses the firm hope that the necessary measures will be taken in the near future to amend the legislation in respect of the abovementioned points, and requests the Government to indicate, in its next report, the progress made in this respect.

Rwanda (ratification: 1988)

The Committee notes the Government's report.

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish organizations of their own choosing.

Agricultural workers. The Committee notes with interest the information provided by the Government to the effect that section 2 of the new Labour Code, recently adopted by the Transitional National Assembly, no longer excludes agricultural workers from the scope of the Labour Code. As it has done in the context of the application of Convention No. 11, the Committee requests that the Government provides the text of the new Labour Code with its next report.

Public servants. In its previous comments, the Committee noted the comments of the Confederation of Trade Unions of Rwanda (CESTRAR) regarding section 84 of the Bill to issue the conditions of service of the public service, which envisaged prohibiting state employees from publicly expressing their political, philosophical, religious or trade union opinions. In this respect, the Government emphasizes in its latest report that articles 16, 18, 19 and 20 of the Constitution of 1991 provide that state officials, in the same way as any other citizen, have the right to freedom of expression and of association. The Government also indicates that new general conditions of service for state employees have just been adopted by the Transitional National Assembly without, however, indicating whether or not the provisions concerning the prohibition from expressing their trade union opinions has been maintained. The Committee therefore requests that the Government provides with its next report the text of the new general conditions of service of state employees so that it can examine their conformity with the provisions of the Convention.

Articles 3 and 10. The right of the organizations of public servants not exercising authority in the name of the State to formulate their programmes in the defence of the occupational interests of their members, including recourse to collective action and to strikes. In its previous comments, the Committee noted that section 26 of the Legislative Decree of 19 March 1974 on the general conditions of service of state employees prohibits them from taking part in strikes or in activities aimed at causing a strike in state services. In this respect, the Committee notes with interest that, according to the Government, the prohibition of strike action is no longer contained in the new general conditions of service of state employees. The Committee will review this matter once it has received from the Government the text of the new conditions of service.

Article 3. Right of workers' organizations to elect their representatives in full freedom. In its previous comments, the Committee noted that section 8(b) of the Labour Code of 1967 provides that only nationals may be elected as members responsible for the management and administration of a workers' occupational organization. The Committee recalled in this respect that national legislation should allow foreign workers to take up trade union office, at least after a reasonable period of residence in the host country. In its latest report, the Government indicates that the amendment permitting the election of foreign workers to executive office in occupational organizations after a period of residence of five years in the country and subject to the condition that their number should not exceed one-third of the members of the management and administration committee of the organization, has been included in the new Act issuing the Labour Code, which has been adopted by the Transitional National Assembly. The Committee notes this information with interest and will examine the new provisions when it has a copy of the new Labour Code.

Envisaged legislation regarding restrictions on the right to strike. The Committee had previously emphasized that section 272 of the draft Labour Code, which restricts the right to strike of workers occupying posts that are essential for, among others, the conservation of installations and equipment and for ensuring the functioning of the country's vital socio-economic sectors, is too broad in scope to be compatible with the Convention. In its latest report, the Government indicates that the text in question (section 192 of the new Labour Code) has already been adopted by the Transitional National Assembly and that during the preparation of the texts implementing the new Code, which should be completed by the end of 2001, the Government will take into account the concerns expressed by the Committee. In this respect, the Committee trusts that the texts issued under this provision will restrict the right to strike only in essential services, that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population, or in the event of an acute national crisis. It therefore requests the Government to provide copies of the texts implementing the new Labour Code as soon as they are adopted.

Saint Lucia (ratification: 1980)

The Committee notes with satisfaction the adoption of the Registration, Status and Recognition of Trade Unions and Employers' Organizations Act, 1999 (the Act). It notes, in particular, the limitation now placed on the power of the Registrar to inspect trade union accounts, which had been requested by the Committee in its previous comments.

The Committee regrets, however, that once again the Government's report has not been received.

The Committee has addressed comments concerning other aspects of the Act directly to the Government.

Sao Tome and Principe (ratification: 1992)

The Committee notes with regret that for the fourth consecutive year the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. *Article 2 of the Convention.* With regard to public employees, the Committee asks the Government to state whether this category of workers has the right to organize and to indicate the applicable legislation.
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> 2. *Articles 3 and 10 (right of workers' organizations to formulate their programmes to promote and protect workers' interests without interference from the public authorities).* The Committee points out that it has always been of the opinion that the right to strike is one of the essential means available to workers and their organizations for the promotion and protection of their economic and social interests (see General Survey on freedom of association and collective bargaining, 1994, paragraph 147).
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> *Majority for calling a strike.* The Committee notes that section 4 of Act No. 4/92 establishes that decisions on the calling of strikes must be adopted by a two-thirds majority of the workers present at the general assembly convened for the purpose. The Committee considers that the requirement of two-thirds of the workers is high and could be an obstacle to the exercise of the right to strike and that it would therefore be appropriate for the decision to be taken by a simple majority of the workers present at the assembly.
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> *Minimum services.* The Committee also notes that paragraph 4 of section 10 of Act No. 4/92 establishes that employers determine the minimum services after consulting the workers' representative. In the Committee's view, it would be more appropriate to provide that in the event of disagreement in determining such services, the matter should be settled by an independent body.
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> The Committee further notes that under paragraph 2 of section 9 of the Act, the Ministry in charge of labour administration may authorize the enterprise to hire workers to perform essential services, in order to maintain the economic and financial viability of the enterprise should it be seriously threatened by the strike. Bearing in mind that the application of this provision could restrict the effectiveness of the strike as a means of pressure, the Committee considers that, in such cases, rather than authorizing the enterprise to hire workers to perform essential services, minimum services could be determined by negotiation in which the workers would participate along with the enterprise.
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> *Essential services and compulsory arbitration.* The Committee notes that, under section 11 of Act No. 4/92, compulsory arbitration applies to the essential services set out in section 10, which include postal services (c) and banking and loans (j), which are not essential services in the strict sense as explained by the Committee (services whose interruption might endanger the life, personal safety or health of the whole or part of the population) (see General Survey, paragraph 159). The Committee therefore asks the Government to take the necessary steps to ensure that workers in the postal, banking and loans services may exercise the right to strike.
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> *Grounds for strike.* Lastly, the Committee notes that, under section 1 of Act No. 4/92, the sole purpose of strikes is to safeguard the legitimate occupational and social interests of workers and the interests of the national economy. In the view of the Committee, organizations responsible for defending workers' socio-economic and occupational interests

should, in principle, be able to use strike action to support their position in the search for solutions to problems posed by major social and economic policy trends which have a direct impact on their members and on workers in general, in particular as regards employment, social protection and the standard of living (see General Survey, paragraph 165).

The Committee asks the Government to state whether strikes are allowed as a means of seeking solutions to economic and social policy questions which are of direct concern to the worker.

Article 6. The Committee asks the Government to state whether the right to strike also applies to federations and confederations.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Slovakia (ratification: 1993)

The Committee takes note of the information provided by the Government in its report, as well as of the statement of the Government's representative to the Conference Committee in 2001 and the discussion that followed. The Committee also notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2094 (326th Report, approved by the Governing Body at its 282nd Session, November 2001).

In its previous observations, the Committee asked the Government for clarifications regarding certain provisions of Act No. 83 of 1990 on citizens' associations, and on Act No. 2 of 5 December 1990 on collective bargaining. As concerns the Act respecting citizens' associations, the Committee notes the Government's indication that foreign workers may be candidates for trade union office, regardless of their period of residence in the country, by virtue of section 20 of Act No. 83/1990 on citizens' associations, as amended in 1991 and 1993.

Regarding the Act on collective bargaining, the Committee had asked the Government to provide information on the measures taken or envisaged to reduce the required majority to hold a strike at least with regard to large bargaining units. In its latest report, the Government indicates that amendments to section 17 of the Act on collective bargaining were adopted by the National Council of the Slovak Republic on 18 May 2001. As amended, section 17 of the Act on collective bargaining provides that a trade union may decide to hold a strike upon the approval of an absolute majority of the workers participating in the strike ballot, provided that at least an absolute majority of the workers in the bargaining unit participate in the strike ballot.

The Committee notes with satisfaction that the amended disposition of the Act on collective bargaining is compatible with *Article 3 of the Convention.*

Sri Lanka (ratification: 1995)

The Committee notes the Government's report. It also notes the comments made by the Lanka Jathika Estate Workers' Union and by the Employers' Federation of Ceylon concerning the application of the Convention in Sri Lanka.

The Committee notes the Government's indication that the Emergency Regulations of 3 May 2000 were amended by the Emergency Regulations No. 1 of 6 April 2001. Furthermore, referring to section 7 of the Emergency Regulations of 6 April 2001, the

Government indicates that the schedule referred to in the Committee's previous observations has been repealed. The Committee also notes the comments made by the Employers' Federation of Ceylon to the effect that the Emergency Regulations of 6 April 2001 define essential services and were made under the Public Security Ordinance. However, the Committee also notes the Government's indication that these Emergency Regulations are no longer in force and have been ineffective since July 2001 as they were not renewed by Parliament. The Committee requests the Government to keep it informed in its next report of any Emergency Regulation which may be promulgated in the future.

In addition, the Committee is addressing a request regarding certain other points directly to the Government.

Swaziland (ratification: 1978)

The Committee takes note of the statement made by the Government representative to the Conference Committee in 2000 and the discussion that followed. It also notes the adoption of Act No. 8 of 2000, modifying sections 29, 40 and 52 of the Industrial Relations Act (IRA) of 2000. The Committee further notes the Swaziland Employers Federation's comment concerning certain discrepancies between Decree No. 2 (King's Proclamation) of 2001 and the provisions of the Convention, and the Government's transmittal of Decree No. 3 of 2001, which repeals Decree No. 2 in its entirety.

In its previous comments, the Committee had noted the lengthy procedure and excessive balloting requirements to hold a peaceful protest action under section 40 of the Act, and the withdrawal of all immunity for civil liability for those involved in such a protest. The Committee notes with interest that Act No. 8 of 2000 has amended section 40 of the IRA, so as to reduce the waiting period before such protest action may take place. Regarding the balloting requirements, the Committee further notes with interest the amendments made to section 40(8) of the Act. Regarding the question of civil liability, the Committee notes that amended section 40(13) of the Act has been amended to provide that federations, unions and individuals involved in protest action may only be subject to civil liability for criminal, malicious or negligent acts. The Committee requests the Government to keep it informed in future reports of any practical application of section 40 and, in particular, as concerns any charges brought by virtue of section 40(13).

Article 2 of the Convention. The Committee had noted in its previous comments that His Majesty's Correctional Services were specifically excluded from the scope of the Act, and had requested the Government to provide information as to whether and to what extent they were entitled to organize. According to the statement made by the Government representative, prison staff form an integral part of the armed forces of Swaziland, and thus their exclusion from the scope of the Act is justified. The Committee recalls that the functions exercised by prison staff do not justify their exclusion from the right to organize under *Article 9* of the Convention. However, restrictions may be imposed on those workers in respect of their right to strike. The Committee requests the Government to amend its legislation so that prison staff are granted the right to organize in defence of their economic and social interests and to keep it informed of the measures taken or envisaged in this respect.

Article 3. In its previous comments, the Committee had noted the lengthy procedure required before strike action could be taken legally, and had requested the Government to inform it of any measures taken or proposed to decrease the length of this compulsory dispute settlement procedure. The Committee recalls that provisions which require workers' organizations to observe certain procedural rules before launching a strike are admissible, provided they do not make the exercise of the right to strike impossible or very difficult in practice (see General Survey on freedom of association and collective bargaining, 1994, paragraph 179). The Committee requests the Government to amend its legislation in order to decrease the length of the compulsory dispute settlement procedure provided for in sections 85 and 86, read with sections 70 to 82, of the IRA.

The Committee is also addressing a request on other points directly to the Government.

Switzerland (ratification: 1975)

The Committee notes the information supplied by the Government in its report, as well as the additional information sent by the Government in reply to the specific comments made last year by the Swiss Federation of Trade Unions concerning restrictions on the right to strike in certain cantons which was received during the Committee's meeting. The Committee will examine this additional information at its next meeting.

Syrian Arab Republic (ratification: 1960)

The Committee notes the information supplied by the Government in its latest report. It notes with satisfaction that several provisions of the national legislation which were inconsistent with the Convention have been repealed or amended. Section 160 of the Agricultural Labour Code, which prohibited strikes in the agricultural sector, and section 262 of the same Code which provided that anyone instigating or participating in a strike or a lockout was liable to a term of imprisonment of from three months to one year, have been repealed by Act No. 34 of 2000. Furthermore, Legislative Decree No. 25 of 2000 repeals or amends the following provisions of Legislative Decree No. 84 of 1968 on the organization of workers and Legislative Decree No. 250 of 1969 concerning craftworkers' associations, on which the Committee has been commenting for many years:

- section 32 of Legislative Decree No. 84 and section 6 of Legislative Decree No. 250, which prohibit unions from accepting gifts, donations and legacies without the prior agreement of the General Federation of Workers' Unions and the approval of the Ministry;
- section 35 of Legislative Decree No. 84 which conferred on the Ministry broad powers of intervention over trade union finances at every level;
- section 36(2), (3), (4) and (5) of Legislative Decree No. 84 and section 12 of Legislative Decree No. 250 requiring first-level unions to allocate a certain percentage of their resources to higher level trade unions;

- section 44(4)(b) of Legislative Decree No. 84 under which eligibility for trade union office was subject to prior exercise of the occupation for at least six months; and
- section 25 of Legislative Decree No. 84, as amended in 1982, which restricted the trade union rights of non-Arab foreign workers by continuing to subject them to a reciprocity requirement.

However, the Committee again points out that the following provisions need to be amended:

- section 44(3)(b) of Legislative Decree No. 84 subjecting eligibility for trade union office to Arab nationality; and
- section 1(4) of Act No. 29 of 1986 amending Legislative Decree No. 84 which determines the composition of the congress of the Federation and its presiding officers.

With regard to section 18(a) of Legislative Decree No. 84, as amended by section 4(5) of Legislative Decree No. 30 of 1982, which authorizes the Minister to set the conditions and procedures for the use of trade union funds, the Committee notes the information supplied by the Government that the General Federation is not bound by such procedures. The Committee nonetheless recalls that this provision is not compatible with *Article 3 of the Convention*, which establishes the right of workers' organizations to organize their management and activities without intervention by the public authorities, and asks the Government to amend this clause in order to bring it into line with *Article 3*.

With regard to the legislative provisions establishing trade union monopoly (in particular sections 3, 4, 5 and 7 of Legislative Decree No. 84, sections 4, 6, 8, 13, 14 and 15 of Legislative Decree No. 3 amending Legislative Decree No. 84, section 2 of Legislative Decree No. 250 of 1969 and sections 26 to 31 of Act No. 21 of 1974), the Committee notes the information provided in the Government's reports for several years, that the General Federation of Trade Unions and the General Federation of Farmers and Craftworkers support the principle of trade union unity in order to maintain their organizational strength. The Committee again recalls that laws which organize the structure of trade unions on a single union basis impair the right of workers to establish organizations of their choice and that workers should have the possibility of establishing another federation if they so wish. Although it was clearly not the purpose of the Convention to make trade union diversity an obligation, it does at the very least require this diversity to remain possible in all cases (see General Survey on freedom of association and collective bargaining, 1994, paragraph 91). The Committee therefore requests that the Government take the necessary measures to amend these provisions so as to ensure that trade union pluralism remains possible in all cases, in conformity with *Article 2* of the Convention.

The Committee notes with interest that the Ministry of Justice has established a committee to consider amendments to the Syrian Penal Code. The Committee notes that the draft laws amending the Penal Code do not repeal sections 330, 332, 333 and 334 of Legislative Decree No. 148 of 1949 issuing the Penal Code, restricting the right to strike by imposing heavy sanctions including imprisonment. The Committee recalls that it has been asking the Government for several years to repeal or amend these sections. Section 330 of the Penal Code provides for loss of civic rights for public servants who, as an organized group, hinder the functioning of a public service. Section 332 of the Penal Code imposes a term of imprisonment or a fine for any organized strike action by more than 20 workers in the transport, postal, telegraph and telecommunications, water and electricity-generating services and for strikes accompanied by demonstrations on roads or at public places or where strikers occupy offices and buildings (even peacefully). Section 333 imposes a term of imprisonment of from two months to one year or a fine not exceeding £50 on anyone who has encouraged a strike or lockout or assemblies on roads and at public places (reference to section 332(3)). A term of imprisonment of from two months to one year is enforceable under section 334 for anyone who refuses to execute or defers executing an arbitration award or any other decision by an industrial tribunal. The Committee recalls that the prohibition of the right to strike should be limited to public servants exercising authority in the name of the State and to employees in services which are essential in the strict sense of the term, namely services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (see 1994 General Survey, paragraphs 158 and 159). Transport and postal services are not essential services in the strict sense of the term. Consequently, the Committee asks the Government to ensure that the above provisions of the law that impose restrictions on the right to strike that are enforceable by imprisonment are amended in order to ensure full observance of the abovementioned principle, in conformity with *Article 3* of the Convention.

The Committee further recalls that it also asked the Government to repeal section 19 of Legislative Decree No. 37 of 1966 concerning the Economic Penal Code which imposes forced labour on anyone causing prejudice to the general production plan decreed by the authorities, by acting in a manner contrary to the plan. The Committee asks the Government to provide information on any developments in this regard in its next report.

The Committee reminds the Government that it may seek technical assistance from the ILO, and expresses the hope that measures will be taken at the earliest possible date to bring the national legislation concerning trade union monopoly, restrictions on non-nationals and penal sanctions for exercising the right to strike into full conformity with the Convention. The Government is asked to provide information in its next report on progress made in this respect and to send copies of any amended laws.

The Committee is also addressing a request concerning other points directly to the Government.

Tajikistan (ratification: 1993)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. *Article 3 of the Convention. Right of workers' and employers' organizations to draw up their constitutions and rules, to elect their representatives in full freedom and to organize their administration and activities.* Concerning article 4(1) of the Law on Trade Unions which provides that trade unions shall be independent in their activities and that any interference by state authorities shall not be permitted except in cases specified by law, the Committee requests the Government to specify in its next report in which cases the state authorities are allowed to interfere with trade union activities.

> 2. *Article 3. Right to strike.* Concerning article 211 of the Labour Code which provides that restrictions of the right to strike shall be subject to the provisions of legislation in force in Tajikistan, the Committee requests the Government to provide the text of the provisions relating to such restrictions. Furthermore, the Committee requests the Government to state whether the former provisions of the Penal Code which were at the time applicable in the USSR, and particularly section 190(3), which contained significant restrictions on the exercise of the right to strike in the transport sector, enforceable by severe sanctions, including sentences of imprisonment for up to three years, have been repealed by a specific text.
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> The Committee also requests the Government to supply in its next report a copy of the Law of 29 June 1991 regulating the organization and holding of meetings, gatherings, street processions and demonstrations. In addition, the Committee requests the Government to indicate what are the legal provisions on the right to organize of employers.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

The former Yugoslav Republic of Macedonia (ratification: 1991)

The Committee notes with regret that, since the entry into force in respect of The former Yugoslav Republic of Macedonia of this Convention in 1992, the Government's first report has still not been received.

The Committee trusts that the Government is now in a position to provide detailed replies to the questions contained in the report form, along with any relevant legislative texts, in its next report.

Turkey (ratification: 1993)

The Committee takes note of the information provided in the Government's report as well as the comments made by the Confederation of Public Servants Trade Unions (KESK), by the Confederation of Turkish Trade Unions (TURK-IS), by the Energy-Building and Road Construction-Union (ENERJI-YAPI YOL SEN), by the Trade Union of Civil Officers Employed in Military Offices (ASIM-SEN), and the Turkish Confederation of Employers' Associations (TISK).

In its previous comments, the Committee had requested the Government to provide information on the draft bill on public servants' unions which was under preparation. In this regard, the Committee had recalled the need to adopt legislation to ensure the full rights of the Convention to public servants, including the right to strike for public servants who are not exercising authority in the name of the State.

The Committee notes the information given by the Government in its report that the bill which was soon to be adopted would govern the activities of the organizations of public servants already in existence. The Committee also notes the comments from the Government in respect of the right to strike for public servants to the effect that public servants enjoy a special employment status.

The Committee notes that the bill has been adopted and came into force on 12 August 2001 as Act No. 4688 on public employees' trade unions. While noting that the adoption of the Act is part of a substantial reform process initiated by the Government, the Committee would like to draw the Government's attention to certain discrepancies between the Act and the provisions of the Convention, as well as on a number of other points which the Committee had raised in its previous comments.

Article 2 of the Convention

Right of workers and employers without distinction whatsoever to establish and join organizations of their own choosing. The Committee notes from sections 3(a) and 15 of the Act on public employees' trade unions that several categories of public servants are denied the right to organize either because they are not covered by the Act or because they are specifically excluded from this right by the Act. The definition of "public employee" in section 3(a) refers only to those who are permanently employed and have finished their trial periods. Section 15 lists a number of public employees (such as judges, lawyers, high-ranking officials, civilian civil servants at the Ministry of National Defence and the Turkish Armed Forces, employees at penal institutions, etc.) who are prohibited from joining trade unions. The Committee would like to underline that *Article 2* of the Convention provides that workers without distinction whatsoever should have the right to form organizations of their own choosing. Consequently, all public servants should have the right to organize irrespective of the nature and the level of their responsibilities and of their professional status. As concerns senior public officials, the Committee considers that they should at least be entitled to establish their own organizations. The only admissible exception under the Convention concerns the armed forces and the police, and even in these areas it is understood that civilian workers at these institutions should be entitled to exercise this right fully as all other workers. The Committee therefore requests the Government to take the necessary measures to amend sections 3(a) and 15 so that public servants, other than members of the armed forces and the police, are fully ensured the right to organize in accordance with *Article 2* of the Convention.

The Committee notes from the information submitted by the various workers' organizations that public servants have already established a number of organizations that will become illegal by reason of the prohibitions and restrictions set forth in the law and noted above. The Committee notes from the transitional provisions that existing organizations have eight months to meet the conditions set out by the Act. It trusts that the Government will take the necessary measures to ensure that the application of the Act will not affect the activities of these organizations in a manner that would be in direct contravention with the Convention.

Article 3 of the Convention

1. *Right of workers' organizations to elect their officers freely.* With reference to section 37 of the Trade Unions Act No. 2821, the Committee had noted in its previous comments the Government's indications concerning the effect of candidacy of union officers to local and general elections on their union activities and the scope of the penalty of imprisonment in case of infringement of the law. The Committee had requested that the Government indicate measures to ensure that the conditions of eligibility for trade union officers are determined by the organizations themselves. The Committee notes with regret that the Government has not provided any information in its latest report in this respect. The Committee would like to recall once again that the effect of the candidacy of union officers to local and general elections is a matter to be left to

the organizations' internal rules and not for the Government to regulate. The Committee requests the Government to take the necessary measures to amend section 37 so as to enable workers' organizations to determine freely whether union officers may remain in their posts during their candidacy or election to local or general elections.

As concerns public servants, the Committee notes that section 10 of the Act on public employees' trade unions also addresses the impact of the candidacy of union officers to general and local elections on their union activities by providing that the positions in the union or confederation bodies of those who are candidates in the general or local elections remain in suspense during their candidacy period. In this respect, the Committee would like to recall the comments made above on the Trade Union Act, which also apply to civil servants union officers. The Committee therefore requests the Government to amend section 10 of the Act to ensure the right of civil servants' organizations to elect their representatives in full freedom.

2. *Right of workers' and employers' organizations to organize their activities and formulate their programmes free from government interference.* In its previous comments, the Committee had made a number of points concerning the prohibition and the restriction of the right to strike provided for under section 54 of Act No. 2822 on collective labour agreements, strikes and lockouts. In particular, the Committee had drawn the Government's attention to certain principles concerning the general prohibition on sympathy strikes, namely, that workers should be able to take such action provided that the initial strike they are supporting is itself lawful. The Committee had also pointed out that sanctions for strike action, in particular penalties of imprisonment, should only be possible where the prohibitions for strike actions are in conformity with the principles of freedom of association. With reference to sections 29, 30 and 32 of Act No. 2822, the Committee had also recalled that restrictions on strike action, in particular through the imposition of compulsory arbitration, could only be justified in respect of essential services in the strict sense of the terms, public servants exercising authority in the name of the State and in cases of acute national crisis. The Committee notes the information provided by the Government in its latest report that no legislative reform in respect of the prohibition of protest and sympathy strikes can occur until the procedure to amend the relevant provisions of the Constitution is carried out and that a draft bill will amend section 29 of Act No. 2822 on collective agreements, strikes and lockouts by limiting the activities and services in which strike action is prohibited. The Committee expresses the hope that the Government will in the near future take the necessary measures to amend the abovementioned provisions so as to ensure the right of workers' organizations to organize their activities without interference by the public authorities.

The Committee further notes that section 35 of the Act on public employees' trade unions provides that in case of failure to reach an agreement one of the parties may call for a reconciliation committee, but makes no mention of the circumstances in which strike action may be exercised. It also notes the comments made by the Government on the special status of public servants in respect of the right to strike. In this respect, the Committee recalls that restrictions on the right to strike in the public service should be limited to public servants who are exercising authority in the name of the State (see General Survey on freedom of association and collective bargaining, 1994, paragraph 158). The Committee also recalls that restrictions to the right to strike by the imposition of compulsory arbitration can only be justified in respect of this limited category of public servants and those working in essential services in the strict sense of the term.

Further, where the right to strike may be prohibited or limited, compensatory guarantees should be afforded to public servants, such as mediation and conciliation procedures or, in the event of deadlock, arbitration with sufficient guarantees of impartiality and rapidity. The Committee therefore requests that the Government take the necessary measures to ensure that those public servants who are not exercising authority in the name of the State and who cannot be deemed to be carrying out essential services in the strict sense of the term have recourse to industrial action without penalty.

The Committee notes with interest the indications given by the Government in its latest report to the effect that provisional section 1 of Act No. 3218 imposing compulsory arbitration in export processing zones for a ten-year period will be repealed. The Committee requests that the Government keep it informed of any developments in this respect so as to ensure that workers in export processing zones have the possibility of taking industrial action in defence of their interests.

The Committee notes that section 10 of the Act on public employees' trade unions governs in detail the timing of the general assembly meetings and the majority needed to summon an extraordinary general assembly or to hold the other meetings of the general assembly. Furthermore, this section provides that, upon application to a labour court by an official of the Ministry of Labour and Social Security, a union executive committee can be dissolved if the union does not comply with these requirements. The Committee underlines that *Article 3* of the Convention provides that workers' and employers' organizations shall have the right to organize their administration and activities without interference by public authorities. In particular, the Committee points out that any removal or suspension of trade union officers which is not the result of an internal decision of the trade union, a vote by members or normal judicial proceedings, seriously interferes in the exercise of the trade union office to which the officers have been freely elected by the members of their trade unions. Provisions which permit the suspension and removal of trade union officers or the appointment of temporary administrators by the administrative authorities are incompatible with the Convention (see 1994 General Survey, paragraph 122). The Committee therefore requests that the Government take the necessary measures to repeal section 10 of the Act so as to ensure that workers' organizations may organize their administration and activities without any undue interference by the public authorities.

The Committee requests that the Government indicate in its next report the specific measures taken or envisaged to bring its legislation on the abovementioned points into full conformity with the Convention. It draws the Government's attention to the availability of ILO technical assistance in this respect.

The Committee is raising a number of other points in a request addressed directly to the Government.

Venezuela (ratification: 1982)

The Committee notes the Government's report and the discussion that took place in the Committee on the Application of Standards of the Conference in 2001. The Committee observes in this connection that the Government agreed to the visit of a direct contacts mission to gather information on the application of the Convention and to prepare amendments so that it would be applied in full. The Committee notes that the Government has informed the Office that it is prepared for the mission to take place during the first quarter of 2002. The Committee also notes the conclusions of the Committee on Freedom of Association in Case No. 2067 (Reports Nos. 324, 325 and 326).

The Committee recalls that for many years it has referred in its comments to the following provisions of the Basic Labour Act which need to be amended so as to bring the legislation into line with the Convention:

- the requirement of an excessively long period of residence (more than ten years) for foreign workers to be eligible for trade union office (section 404);
- the excessively long and detailed list of duties entrusted to and aims to be achieved by workers' and employers' organizations (sections 408 and 409);
- the requirement of an excessively high number of workers (100) to establish trade unions of self-employed workers (section 418); and
- the requirement of an excessively high number of employers (10) to establish an employers' organization (section 419).

The Committee observes that in response the Government indicates: (1) that the suggestions of the supervisory bodies have been sent to the Legislative Committee in charge of adapting the labour legislation to the Constitution of the Republic and that the above Committee has recommended revising the whole body of legislation comprising the Basic Labour Act with a view to a comprehensive legal reform in keeping with the current process of change in the country; and (2) that the National Assembly will decide whether the new constitutional requirements call for a comprehensive reform or partial reform of the law. While noting the Government's statement that the National Assembly will likely submit the matter to a national plebiscite and that as such, no definite time frame can be set for the final result, the Committee recalls that it has been asking the Government for many years to take the necessary measures to make the relevant amendments. In these circumstances, the Committee requests that the Government provide information in its next report on the specific measures it has taken to amend the provisions in question.

Furthermore, in its previous observation the Committee referred to a number of provisions of the Constitution of the Republic of December 1999 which were not in conformity with the provisions of the Convention on which the Government had sent its comments. They are:

1. Article 95, which states: "The Constitution and rules of trade union organizations shall require the alternation of executive officers by means of universal, direct and secret suffrage". The Committee notes the Government's statement that the basis of this provision of the Constitution is the absolute necessity for elections to be held in practice, and the need for alternation in the leadership of the union. In this connection the Committee emphasizes that, according to *Article 3 of the Convention*, decisions as to any alternation in trade union leadership lies exclusively with workers' organizations and their members. The Committee therefore asks the Government to take steps to have this provision repealed, and to inform it in its next report of any measures taken to this end.

2. Section 293 and the eighth transitional provision state that the Electoral Authority (National Electoral Council) is responsible for organizing the elections of occupational unions and that pending promulgation of the new electoral laws provided

for in the Constitution, elections will be convened, organized, managed and supervised by the National Electoral Council (pursuant to a decree published in *Official Gazette* No. 36.904 of 2 March 2000 on measures to ensure freedom of association, members of the electoral board were appointed and their duties included that of securing trade union unity and ruling on membership of workers' organizations). The Committee notes that, according to the Government: (1) the purpose of the National Electoral Council is to ensure observance of the electorate's wishes and its right to participate directly in trade union matters through free elections which guarantee equal opportunity without any distinction whatsoever; (2) the National Electoral Council has drafted the Transitional Special Statute for renewal of trade union executives after consultation with the trade union organizations involved and that the Statute is temporary in nature; (3) that through Decree No. 36.904 the Executive expressed the need to achieve both the unity of the trade union movement and an electoral process in keeping with the provisions of *Article 3* of the Convention, by facilitating universal, direct and secret suffrage. The Committee again reminds the Government that the regulation of trade union election procedures and arrangements must correspond to that which has been established in the trade union statutes and should not be regulated by some body outside the workers' organization. The Committee again recalls that only the members of trade unions, as determined in the trade union statutes, should be able to participate in trade union elections. Furthermore, the question of trade union unity must not, in any event, be imposed by law, such imposition constituting one of the most serious violations of freedom of association. In these circumstances, the Committee asks the Government to take steps to amend the abovementioned provisions of the Constitution by removing the National Electoral Council's authority to intervene in trade union elections, and to repeal the abovementioned Decree on measures to ensure freedom of association. The Government is requested to provide information in its next report on any measures taken to this end.

In its previous observation the Committee also noted with deep concern the bills on protection of trade union guarantees and freedoms, and the democratic rights of workers in their trade unions, federations and confederations, which contain provisions that run counter to the guarantees set out in the Convention. The Committee notes the Government's statement that the trade union federations will decide on whether these bills will be submitted to the National Assembly. The Committee asks the Government to take steps to ensure that Parliament is informed about the incompatibility of the bills with the provisions of the Convention and expresses the firm hope that the bills will be abandoned.

Lastly, the Committee notes that the Committee on Freedom of Association urged the Government to repeal resolution No. 01-00-012 of the Office of the Prosecutor of the Republic requiring trade union officials to make a sworn statement of assets at the beginning and end of their mandate (see 326th Report, Case No. 2067, paragraph 517). The Committee requests that the Government provide information in its next report on any measures taken to revoke the abovementioned resolution.

The Committee expresses the firm hope that it will be possible for all these matters to be resolved in conformity with the Convention and with the assistance of the forthcoming direct contacts mission. The Committee asks the Government to keep it informed in this regard in its next report.

Yemen (ratification: 1976)

The Committee takes note of the information provided by the Government in its latest report. It also takes due note of the 1999 Bill on trade unions and wishes to raise the following points.

Article 2 of the Convention. The Committee for a number of years has requested the Government to amend or repeal the provisions on trade union monopoly which remained in the Labour Code of 1995 (sections 2, 131(c) and 145(2)). In this respect, the Committee notes with concern that the new Bill of 1999 also refers by name to the General Federation, in particular, in sections 2, 13, 18, 32 and 62 and that sections 19 and 52 provide that this Confederation shall assume the leadership of the trade union movement. The Committee recalls that although it was clearly not the purpose of the Convention to make trade union diversity an obligation, it does at the very least require this diversity to remain possible in all cases. There is a fundamental difference between, on the one hand, a trade union monopoly established or maintained by law and, on the other hand, voluntary groupings of workers or unions that occur without pressure from the public authorities, or due to the law. Convention No. 87 implies that pluralism should remain possible in all cases (see General Survey on freedom of association and collective bargaining, 1994, paragraphs 91 and 96). The Committee takes due note of the information provided by the Government in its report that it is currently reviewing the drafting of a few provisions of the Labour Code so as to insert some amendments in the light of the comments made by the Committee as well as re-examine the draft Bill on trade unions which was accepted by the Council of Ministers, and which has been referred to the legislative authority. The Committee expresses the firm hope that the necessary measures will be taken to amend the Labour Code and draft Bill in order to delete all references to specific unions or confederations and requests that the Government keep it informed of any developments in this respect.

Article 3. In its previous comments, the Committee had also requested that the Government amend or repeal restrictions on industrial action by trade unions (section 16 of Ministerial Order No. 42 of 1975 concerning procedures for the settlement of labour disputes). The Committee had noted that certain provisions of the Code set out conditions for legitimate strike action which were too strict, namely that strikes could only be called following the completion of dispute settlement procedures, and that under sections 130, 137 and 139 of the Code the dispute could be referred to compulsory arbitration at the request of only one of the parties and the exercise of the right to strike could be suspended for 85 days. The strike call must have been submitted to the general trade union concerned, it must have been signed by two-thirds of its members and the trade union committee must have obtained written approval from the General Federation of Trade Unions. The strike must concern more than two-thirds of the workforce of the employer concerned and three weeks' notice of intention to strike must be given (section 145). The Committee considers that the fact that strike action must be approved by the General Federation of Trade Unions, by its very nature restricts the right of trade union organizations to organize their activities and to further and defend workers' interests. The Committee therefore had requested the Government to repeal the provisions concerning the prior approval by the General Federation of Trade Unions in order to call a strike and to amend the provisions concerning arbitration which considerably restrict the exercise of the right to strike. Noting the indications in the Government's latest report that it will take the comments of the Committee into consideration with respect to provisions covering strikes in the Labour Code, and will make the necessary amendments thereto, the Committee requests the Government to indicate in its next report the progress made in this regard.

The Committee further notes from the Government's report that the draft Bill on trade unions clarifies many texts dealing with freedom of association, the right to organize, the establishment of political parties, etc. In this regard, the Committee notes that sections 13 to 28 of the Bill deal with the organizational structure of trade unions as well as the bodies of the Confederation in a very detailed manner and therefore limit the right of workers to organize freely their administration in accordance with *Article 3* of the Convention. The Committee therefore requests that the Government amend the Bill so as to eliminate such interference in the right of workers' organizations to organize their administration.

Given the importance of the discrepancies between the draft Bill on trade unions and the provisions of the Convention, the Committee draws the Government's attention to the availability of ILO technical assistance in respect of the abovementioned matters should it so desire.

As concerns workers who are not covered by the Labour Code (i.e. foreign and casual workers, domestic workers and certain agricultural workers), the Committee had requested the Government to indicate whether and in accordance with which provision it recognizes such workers' right to organize for the defence of their interests. The Committee notes the information provided by the Government in its latest report to the effect that the Minister of Labour and Vocational Training is currently preparing, by virtue of section 4 of the Labour Code, draft texts concerning such workers. The Committee requests the Government to supply the relevant drafts, as well as the text of any new regulations made under the new Labour Code and any other applicable texts.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Albania, Algeria, Bangladesh, Belarus, Botswana, Chile, Czech Republic, Ecuador, Egypt, Gabon, Haiti, Indonesia, Kyrgyzstan, Malawi, Republic of Moldova, Mongolia, Pakistan, Paraguay, Saint Lucia, Slovenia, Sri Lanka, Swaziland, Switzerland, Syrian Arab Republic, Turkey.*

Information supplied by *France* in answer to a direct request has been noted by the Committee.

Convention No. 88: Employment Service, 1948

Argentina (ratification: 1956)

In reply to its observation of 1998, the Government has provided a report on the change in management of employment offices, drawn up by the National Directorate of Employment and Training Policies of the Secretariat of Employment. The report shows that in 1998, of the total of 336 employment offices, around one-third were government entities, while the rest were managed by non-governmental organizations. Trade union and non-governmental organizations were those entities which placed the greatest number of persons in the vacancies available with employers. Employment offices provide a series of services to the unemployed which go beyond the traditional functions of an employment office (community distribution of clothes and food, canteens, crèches and specific grants intended to cover the precarious situation of those concerned). The Committee notes that, according to the data contained in ECLAC's *Economic Survey of Latin America and the Caribbean 2000-01*, the employment rate fell from 36.8 per cent in October 1999 to 36.5 per cent in October 2000. The unemployment rate rose from 13.8 to 14.7 per cent (between October 1999 and 2000). In 2000, the number of persons covered by temporary employment programmes fell (137,000 in October 2000 compared with 198,000 one year previously) and there were over 1.3 million underemployed workers. In these circumstances, the Committee requests the Government to provide a detailed report on the application of the Convention and recalls the need to ensure the essential duty of the employment service to achieve the best possible organization of the employment market and its revision to meet the new requirements of the economy and the working population *(Articles 1 and 3 of the Convention)*. The Committee once again requests the Government to provide in its next report any new statistical information published in annual or periodical reports on the number of public employment offices established, applications for employment received, vacancies notified and persons placed in employment by such offices *(Part IV of the report form)*.

Articles 4 and 5. In reply to the comments that it has been making for many years, the Government indicates again that advisory committees have not been set up. The Committee emphasizes the importance, in a context such as the one mentioned above, that cooperation of representatives of employers and workers through advisory committees can have in the organization and operation of the employment service and in the development of employment service policy. The Committee expresses the firm hope that the Government will be in a position to indicate in its next report that advisory committees have been set up and are able to operate so as to give full effect to the above Articles of the Convention.

Libyan Arab Jamahiriya (ratification: 1962)

The Committee notes the information contained in the Government's report in reply to its 2000 observation, in particular the information concerning methods of recruitment and selection of employment service staff *(Article 9, paragraph 2, of the Convention)*. The Committee requests further information on the following points.

Articles 4 and 5. For many years, the Committee has been requesting detailed information on how the provisions of these Articles are applied in practice, as no information was provided in the last report received. Please provide full information on the arrangements made through advisory committees for the cooperation of employer and worker representatives in the organization and operation of the employment service and in the development of employment service policy. Please also indicate the number of advisory committees established, how they are constituted, and the procedure adopted for the appointment of employer and worker representatives. Please also include specific examples of the activities of the advisory committees and how their views were taken into account in the organization and operation of employment services, and in formulation of employment services policy.

Article 6. The Committee notes that there was no information on the application of this Article in the last report received. Please supply information on the organization of the General Manpower Authority, including the role played by the manpower and in-house training offices in facilitating the movement of workers from one country to another with the cooperation of the governments concerned. Please also supply information on measures taken to facilitate occupational mobility, in accordance with paragraph (b), and on the activities of the placement offices to fulfil the duties specified in paragraphs (a), (c), (d) and (e).

Nigeria (ratification: 1961)

The Committee notes with regret that the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its 1994 direct request, which read as follows:

> The Committee notes the information provided by the Government in reply to its earlier comments. It notes, in particular, the information concerning the composition and functions of the tripartite National Labour Advisory Council, which, according to the Government's statement in the report, is also consulted with regard to the policy, organization and operation of the employment service.
>
> *Article 10 of the Convention.* The Committee notes the Government's declaration to the effect that efforts will be made to encourage full use of employment service facilities by employers and workers on a voluntary basis. It would be grateful if the Government would indicate, in its next report, the arrangements made nationally and locally in cooperation with employers' and workers' organizations to encourage full voluntary use of employment service facilities, as required under this Article. It would also like the Government to supply statistical information concerning the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by public employment offices, in accordance with *Part IV of the report form.*

Peru (ratification: 1962)

The Committee notes the Government's report which contains detailed information on the System of Labour Information (SIL) project carried out by the Labour and Social Promotion Ministry as well as the detailed description of the measures and statistics provided by the PROJoven training programme for training young people between the ages of 16 and 25 years in various occupations.

Articles 4 and 5 of the Convention. With reference to its previous observations, the Committee notes with regret that no new information has been provided on the establishment of advisory committees through which suitable arrangements should be made for the cooperation of representatives of employers and workers in the organization and operation of the employment service and in determining its general policy. Taking into account the comments made with regard to the application of the Employment Policy Convention, 1964 (No. 122), the Committee urges the Government to promptly take appropriate measures in order to give effect to Convention No. 88 on this point and to provide, in its next report, information on any progress made in this regard.

Sao Tome and Principe (ratification: 1982)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its comments of 1990 which read as follows:

> The Committee notes that the public employment service in Sao Tome and Principe is free of charge *(Article 1, paragraph 1, of the Convention)*. It hopes that in its next report the Government will supply further information on a number of points that have already been raised in its previous direct request and, particularly, on the arrangements made in accordance with *Articles 4 and 5* to ensure the cooperation of representatives of employers and workers in the organization and operation of the employment service and in the development of employment service policy. Please also continue to supply statistical information and the other published information indicated in *Part IV of the report form* on the work of the CNE respecting the appropriate measures to be taken in accordance with the provisions of *Article 6(b), (c) and (e)* of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Sierra Leone (ratification: 1961)

The Committee notes with regret that the Government's report has not been received for several years. It must therefore repeat its previous observation which read as follows:

> The Committee notes from the Government's report that the draft Employment Service Regulations to which the Government has been referring since 1974 have still not been adopted. The Government indicates once again that the question of the adoption of the draft Regulations is still on the agenda of the next meeting of the Joint Consultative Committee.
>
> The Committee reiterates its hope that the new provisions will be adopted in the very near future and that the next report will contain the information previously requested on: (a) the setting up of national, and where necessary regional and local, advisory committees ensuring the participation of employers' and workers' representatives in equal numbers in the organization and operation of the employment service and in the development of the general policy of this service, in accordance with *Articles 4 and 5 of the Convention*; and (b) the determination of the functions of the employment service in accordance with *Article 6*.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Turkey (ratification: 1950)

The Committee notes the discussion of the Conference Committee which took place during the 89th Session of the Conference (June 2001). It also notes the information contained in the Government's report, received in September 2001, which included comments supplied by the Confederation of Progressive Trade Unions (DISK) and the Turkish Confederation of Employers' Associations (TISK) in Turkish. The Committee will examine the Government's report and comments of the DISK and TISK during its next session.

Venezuela (ratification: 1964)

1. The Committee notes the detailed report provided by the Government in reply to its 1998 observation. The Government refers to various legislative initiatives intended to create a national employment council and state and municipal employment councils, as well as the establishment of ten employment agencies. It also refers to a pilot programme of employment reference and support centres, which made it possible to modernize five employment agencies with the technical and financial assistance of the Inter-American Development Bank. In 1999, a new directorate of vocational and occupational training came into operation, which is responsible for employment agencies. The Government states that it envisages the expansion, consolidation and strengthening of the employment service as a labour network, which would include the public employment agencies of the Ministry of Labour, private non-profit-making agencies, employers', labour and educational organizations, government and municipal bodies, with a view to developing a coordinated network of vocational guidance, information, mediation and training services. Taking into account the situation of the labour market which it has examined in its comments on the application of the Employment Policy Convention, 1964 (No. 122), the Committee requests the Government to describe in its next report the manner in which the reforms of the employment service have contributed to ensuring its essential function, which is "to ensure the best possible organisation of the employment market as an integral part of the national programme for the achievement and maintenance of full employment and the development and use of productive resources" *(Article 1 of the Convention)*. In this respect, the Committee would be grateful if the Government would furnish any statistical information available in published annual or periodical reports concerning the number of public employment offices established, the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by such offices *(Part IV of the report form)*.

2. *Articles 4, 5 and 10.* In its previous comments, the Committee requested information on the number of advisory committees established at the national and regional levels, how they are constituted and what procedure has been adopted for appointing employers' and workers' representatives. With reference to the recommendations made by a tripartite committee in 1993, information was requested concerning the amendment of section 604 of the Organic Labour Act to ensure its full conformity with *Articles 4 and 5* of the Convention, which do not distinguish between employers' and workers' organizations with regard to the operation of the employment service. The Committee notes that measures have been taken to promote the voluntary use of the employment service, although information has not been provided on any consultation to this effect with employers' and workers' organizations. In view of the above, the Committee urges the Government to indicate in its next report the efforts made to give effect to the recommendations of the above tripartite committee and to implement in full the above provisions of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Belize, Colombia, Democratic Republic of the Congo, Ecuador, Egypt, Hungary, Madagascar.*

Convention No. 89: Night Work (Women) (Revised), 1948

Requests regarding certain points are being addressed directly to the following States: *Cameroon, Libyan Arab Jamahiriya, Malawi, Tunisia, Zambia.*

Convention No. 90: Night Work of Young Persons (Industry) (Revised), 1948

Mexico (ratification: 1956)

Article 2, paragraph 1, of the Convention. In the comments it has been making since 1972, the Committee has noted that national legislation does not give effect to the requirement of the Convention which prohibits the employment of young persons under 18 years of age on work during the night, which is defined as a period of at least 12 consecutive hours. Section 175 of the Federal Labour Act prohibits the employment of young persons under 18 years of age in industrial night work, without specifying what is meant by night work for the purpose of this prohibition. Section 60 of the Federal Labour Act defines night work as work performed between 8 o'clock in the evening and 6 o'clock in the morning, namely, during a period of ten hours. This provision which is applicable to all workers ignores the particular requirement of the Convention in regard to persons under 18 years of age.

Article 2 of the Convention lays down that the night signifies a period of at least 12 consecutive hours *(paragraph 1)*, that for young persons under 16 years of age this period shall include the interval between 10 o'clock in the evening and 6 o'clock in the morning *(paragraph 2)* and for young persons between the ages of 16 and 18 years, at least seven consecutive hours falling between 10 o'clock in the evening and 7 o'clock in the morning *(paragraph 3)*. In 1975, the Government stated in its report that Mexican labour legislation does not understand the term "night" to mean a period of at least 12 consecutive hours and does not comply with the provisions of the Convention which state that persons younger than 18 years of age shall be prohibited from working for the above period. In that year, the Committee noted a draft law intended to supplement section 175 of the Federal Labour Act (prohibition of night work for young persons under 18 years of age) by adding a paragraph stating that for the purposes of this section night work shall be taken to mean work carried out between 7 p.m. and 7 a.m. Such a provision would comply with the requirements of the Convention.

In later reports, the Government stated that there was no discrepancy between national legislation and this requirement of the Convention.

The Committee notes the Government's statements in its latest report regarding the absence of any initiatives to amend the Federal Labour Act in this respect. The Committee requests the Government to take the necessary measures to ensure compliance with the Convention.

Paraguay (ratification: 1966)

The Committee notes the various amendments to section 122 of the Labour Code referring to prohibition of night work of young persons.

In 1976, the Committee noted with satisfaction that Act No. 506 of 1974 amended section 122 of the Labour Code so that it complies with the provisions of *Articles 2 and 3 of the Convention*. Section 122 (amended) stated that persons who are less than 18 years old shall not be employed at night for a period of 12 consecutive hours, which shall include the interval between 10 p.m. and 5 a.m. Persons under 16 years of age could not perform any work during the night between 10 p.m. and 6 a.m. According to the same provision, persons under 15 years of age could not be employed during the night for a period of at least 14 consecutive hours, which included an interval between 8 p.m. and 8 a.m. This provision was included in the new Labour Code of 1993 (Act No. 213/93). Section 122 gave effect to *Article 2* of the Convention.

The Committee notes with regret the new amendment of section 122 of the Labour Code, by means of Act No. 496 of 22 August 1995. According to new section 122, young persons between 15 and 18 years of age shall not be employment during the night for a period of time of ten consecutive hours, which shall include the interval between 8 p.m. and 6 a.m. The amendment decreased to ten hours the period of rest of 12 consecutive hours established by the Convention and by section 122 of the Labour Code before being amended by the Act No. 496 of 22 August 1995. Furthermore, the Committee observes that section 189 of the Minor Code (Act No. 903/81) prohibits young persons under 18 years of age to perform night work for a period of nine hours between 8 p.m. and 5 a.m. This provision is in violation of both the national legislation that establishes ten consecutive hours (section 122 of the Labour code) and *Article 2* of the Convention that establishes a period of at least 12 consecutive hours.

The Committee observes the legislative regression on the subject of young persons' protection at a time when night work has been included in the notion of hazardous child labour in Recommendation No. 190 on the worst forms of child labour, and also taking into account the fact that Paraguay ratified Convention No. 182 on the worst forms of child labour in March 2001.

The Committee hopes that the Government will take the necessary legislative measures to bring the legislation into conformity with the Convention by amending section 122 of the Labour Code and section 189 of the Minor Code.

The Committee refers to its comments on the application of the Convention No. 79.

[The Government is asked to supply full particulars to the Conference at its 90th Session and to report in detail in 2002.]

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In addition, a request regarding certain points is being addressed directly to *Slovakia*.

Convention No. 91: Paid Vacations (Seafarers) (Revised), 1949

Requests regarding certain points are being addressed directly to the following States: *Guinea-Bissau, Mauritania.*

Convention No. 92: Accommodation of Crews (Revised), 1949

Egypt (ratification: 1982)

Articles 6 to 13 and 15 of the Convention. For a number of years the Committee has been asking the Government to provide information on the legislation which gives effect to these provisions. The Committee notes with regret that the Government's latest report again provides no information in this regard. Recalling also the Government's earlier indications concerning the work of the tripartite committee responsible for reviewing the legislation, the Committee requests the Government in its next report to provide information on any specific measures taken or envisaged to adopt the respective legislation.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Guinea-Bissau, Luxembourg, Russian Federation.*

Convention No. 94: Labour Clauses (Public Contracts), 1949

Brazil (ratification: 1965)

With reference to its previous observations, the Committee notes the Government's detailed report and attached documents, including Decree No. 2271/97 and Directive (Instrução Normativa) IN/Mare No. 18/97 relating to procedures preparatory to tendering and subcontracted services.

The Committee has been drawing the Government's attention for some years to *Article 2(1) of the Convention* under which the labour clauses in public contracts should ensure to the workers concerned not only wages but also hours of work and other labour conditions not less favourable than those established for similar work, in the trade or industry concerned, in the same district, whether by collective agreements or by arbitration awards or by national legislation. In its report, the Government states that labour legislation is of general application and mandatory and therefore the inclusion of labour clauses directly related to hours of work and labour conditions other than wages is superfluous.

The Committee wishes to emphasize that the insertion of labour clauses covering all the employment conditions of persons engaged in the execution of public contracts constitutes the basic requirement of the Convention and the best guarantee that such workers enjoy conditions as favourable as those which may have been collectively negotiated and obtained by workers employed in similar work in the same district. It should therefore be clear that where collective agreements grant additional benefits or provide for higher standards than those established under labour laws in general, or where collective agreements are not generally binding, a mere reference to the relevant provisions of the national legislation would be insufficient for the purpose of giving effect to the Convention. The Committee hopes that the Government will soon take steps to bring its legislation into full conformity with the requirements of the Convention in this regard. It also reiterates its suggestion that in addressing these matters, the Government might wish to have recourse to the Office's technical advice.

Moreover, the Committee once again requests the Government to provide in accordance with *Article 6* of the Convention and *Part V of the report form* all available information on the application of the Convention in practice, including for instance copies of public contracts containing labour clauses, official reports or statistics bearing on the enforcement of relevant legislation (e.g. number and nature of infringements observed and penalties imposed) and any other particulars regarding the practical fulfilment of the conditions prescribed by the Convention.

Burundi (ratification: 1963)

The Committee notes the information supplied by the Government in its reports, and in particular the adoption of Decrees Nos. 1/015 of 19 May 1990 and 100/120 of 18 August 1990 on public contracts. In this connection, the Committee wishes to draw attention to the following points.

Article 2 of the Convention. Further to its previous comments, the Committee is bound to recall that, under *Article 2, paragraphs 1 and 2*, of the Convention, the workers employed in public contracts are entitled to wages and labour conditions at least as good as those normally observed for the kind of work in question, whether determined by collective agreements, arbitration or legislation. The reason the Convention refers to collective agreements first is that collective agreements, or agreements reached through some kind of negotiation or arbitration, normally prescribe more favourable conditions than the conditions flowing from legislation. The insertion therefore of labour clauses in public contracts seeks to guarantee that the workers concerned enjoy labour conditions not less favourable than whichever is the most favourable of the three alternatives provided for in the Convention, i.e. collective negotiation, arbitration or legislation. Therefore, while noting the Government's indication that collective agreements by sectors have not as yet been concluded, the Committee asks the Government to indicate the measures taken or envisaged to ensure that section 2 of Presidential Decree No. 100/49 of 11 July 1986 is applied in practice in a manner consistent with the requirements of the Convention.

In addition, the Committee notes the Government's statement that no specific measures have been taken to ensure that persons tendering for contracts are aware of the terms of the labour clauses. In fact, section 26 of Decree No. 100/120 of 18 August 1990 concerning the specifications of public contracts does not expressly provide that invitations to tender should contain information on the labour clauses. The Committee therefore requests the Government to take all appropriate measures to ensure that the terms of the labour clauses are brought to the notice of tenderers in accordance with *Article 2, paragraph 4*, of the Convention.

Part V of the report form. The Committee notes the statistical information contained in the Government's report regarding the number of public contracts awarded in 1999 and 2000 as well as the number of workers engaged in the execution of some of those contracts. It requests the Government to continue to provide, in accordance with *Article 6* of the Convention and *Part V of the report form*, all available information on the practical application of the Convention, including, for instance, copies of public contracts containing labour clauses, extracts from official reports, information concerning the number of contracts awarded during the reporting period and the number of workers covered by relevant legislation, statistics from inspection services on the supervision and enforcement of relevant legislation and any other information bearing on the practical implementation of the requirements of the Convention.

[The Government is asked to report in detail in 2003.]

Cameroon (ratification: 1962)

The Committee notes the information provided by the Government in its report, and in particular the adoption of Decree No. 95/101 of 9 June 1995 issuing regulations respecting public contracts and Decree No. 2000/156 of 30 June 2000 amending and supplementing certain conditions of Decree No. 95/102 of 9 June 1995 determining the functions, organization and operation of public contract commissions, which repeal Decree No. 86/903 of 18 July 1986 issuing regulations respecting public contracts.

In its previous comments, the Committee emphasized the need to amend the legislation to bring it into conformity with *Article 2, paragraph 1, of the Convention*. In its reply, the Government states that, even though the documents of public contracts do not indicate clearly that the workers concerned benefit from the same wages, conditions of work, safety, health and welfare as their colleagues working under private contracts and exercising the same activity in the same region, this is merely a problem of wording. In practice, labour inspectors visiting the construction sites of public buildings, for example, apply precisely the laws and regulations that are in force and the provisions of the national collective agreement for construction enterprises and public works.

The Committee notes that section 15(1) of Decree No. 95/101 above, which provides that "tendering enterprises shall undertake in their bids to comply with all laws and regulations and all clauses of collective agreements relating, among other matters, to wages, conditions of work, safety, health and welfare of the workers concerned" merely repeats the provisions of section 18(1) of Decree No. 86/903 of 18 July 1986, which it repeals. The Committee is bound to recall that, since the adoption of this latter Decree, it has been drawing the Government's attention to the fact that the Decree, and particularly section 18, does not give effect to the Convention. The Committee is therefore bound once again to recall that, in accordance with *Article 2, paragraph 1*, of the Convention, it is not sufficient for enterprises submitting bids to undertake in their bid to guarantee workers the same conditions of work as those established for work of the same nature in the trade or industry concerned in the same region, by collective agreement, arbitration award or national laws or regulations, but that clauses to this effect must be included in the final contracts concluded by the public authority. The Committee recalls that the objective of the inclusion of labour clauses in public contracts is to ensure that the wages, hours of work and other conditions of work of the workers concerned cannot be less favourable than whichever of the most favourable of the three alternatives prescribed by the Convention, namely collective agreements, arbitration awards or national laws or regulations.

The Committee once again hopes that the Government will soon take the necessary measures to bring its laws and regulations into conformity with the Convention on this point, on which it has been commenting for many years, and it requests the Government to indicate in its next report any progress achieved in this respect.

The Committee is also addressing a request directly to the Government concerning certain points.

Central African Republic (ratification: 1964)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> With reference to the comments it has been making for a number of years, the Committee notes the statement to the effect that the Government intends to supplement Decrees Nos. 61/135 and 61/137 of 19 August 1961 relating to public contracts for the supply of goods and services, taking into account the Committee's suggestions. Recalling that the Government has been expressing this intention since 1982, the Committee hopes that the Government will be able to adopt these texts in the very near future. In this connection, the Committee emphasizes that in accordance with the provisions of *Article 2, paragraph 1, of the Convention*, the contracts to which the Convention applies shall include clauses guaranteeing to the workers concerned working conditions, and not only wages, which are not less favourable than those established for work of the same character in the trade or industry concerned in the same district. The Committee hopes that the Government will be able to supply the texts adopted with its next report.
>
> With regard to the National Collective Agreement for Public Works and Construction, the Committee requests the Government to supply a copy of this agreement since the copy referred to in its earlier report has not been received.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Costa Rica (ratification: 1960)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the comments made by the Association of Customs Officers (ASEPA) in a communication dated 12 October 1995. It notes that, although the ASEPA mentions Convention No. 94 among others, there is no information in the communication that would allow the Committee to judge whether there has been any infringement of the provisions of the Convention. The Committee recalls that the Convention applies to public contracts which involve the employment of workers by the party other than the public authority *(Article 1(1)(b)(ii) of the Convention)*, and that the employment contracts between a public authority and its employees are outside the scope of this Convention.

The Committee hopes the Government will make every effort to take the necessary action in the very near future.

Democratic Republic of the Congo (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee noted that in its previous report the Government repeated, as it had for years, that the legislative text would be communicated as soon as it has been brought into line with the provisions of the Convention.
>
> The Committee again strongly suggests that the Government take the necessary steps to ensure that the text designed to give effect to the Convention, for which preparations started in 1979, is adopted in the near future.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Djibouti (ratification: 1978)

Further to its previous comments, the Committee notes the Government's reply that no effect has ever been given to the provisions of the Convention as national laws are inexistent in matters of public contracts. It also notes the Government's request for ILO assistance in order to review a large number of ratified Conventions and consider the possibility of eventually denouncing some of those instruments.

The Committee recalls that it has been suggesting for several years that the Government consults the International Labour Office on the measures that need to be taken in order to apply the Convention to public contracts for the furnishing of supplies and services. The Committee also wishes to point out that the principal obligation for a government arising out of the ratification of an international labour Convention is to take such action as may be necessary to make effective the provisions of the ratified Convention. Moreover, it is obliged to ensure its application as long as it has no denounced it. Therefore, the Committee urges the Government to elaborate with the technical assistance of the International Labour Office, as requested, legislation designed to give effect to the Convention and requests the Government to keep it informed of any developments in this regard.

Egypt (ratification: 1960)

The Committee notes the Government's report and the adoption of the Orders o the Minister of State for Administrative Development, No. 24 of 1997, concerning th employment of national experts and No. 25 of 1997, concerning the employment o temporary workers. The Committee also notes that in reply to its previous observatio the Government states that the labour relations of employees in the state administrativ system are governed by the provisions of Act No. 47 of 1978 on civilian employees o the State. It notes, however, that these texts contain no provisions on labour clauses i public contracts and so are irrelevant to the objectives of this Convention.

Consequently, the Committee is bound to point out, as it did in its previou comments, the need for public contracts as defined in *Article 1 of the Convention* t provide for clauses which ensure to the workers concerned, wages, hours of work an other conditions of labour which are not less favourable than those established for wor of the same character in the trade or industry concerned in the district where the work i carried on, either by collective agreement, arbitration award or by national laws o regulations, in accordance with *Article 2, paragraph 1*.

Pointing out once again that it has been commenting on the application of th Convention in Egypt for 40 years, the Committee urges the Government to take steps t ensure that labour clauses are included in public contracts, in accordance with th provisions of the Convention, and to inform the Committee of any progress in th respect in its next report.

[The Government is asked to report in detail in 2003.]

Ghana (ratification: 1961)

Further to its previous observations, the Committee notes with regret that th Government is still unable to report any progress concerning the application of th Convention. The Committee recalls that for the last ten years the Government has bee indicating that a tripartite advisory body has been reviewing national labour laws with a view to harmonizing them with ratified Conventions. The Committee can only hope that measures will be taken in the very near future to ensure that labour clauses are included in public contracts and that adequate sanctions are applied in conformity with *Articles 2 and 5 of the Convention.*

The Committee again strongly suggests that the Government takes the necessary steps without delay to ensure that full effect is given to the provisions of the Convention and suggests that the Government may wish to consider the possibility of requesting ILO assistance to review the rules on public contracts in order to bring them into conformity with the requirements of the Convention.

[The Government is asked to report in detail in 2003.]

Guatemala (ratification: 1952)

The Committee notes the information provided by the Government, and particularly the copies of the reports of the General Labour Inspectorate. The Committee hopes that the Government will continue providing similar information in future reports.

With reference to its previous comments concerning the application of *Article 2, paragraph 4, of the Convention*, the Committee regrets to note that the Government has not replied to the questions that it has been raising for a number of years. The Committee recalls that in its previous comments it noted that the competent public authority was required to take the appropriate steps to advertise specifications of conditions of work or any other measures necessary to ensure that persons offering and tendering for contracts are aware of the terms of the clauses, in accordance with Governmental Agreement No. 51 of 17 September 1981, as amended, and it requested the Government to provide information on the measures taken in practice.

The Committee requests the Government to provide information in future reports on any measures taken to ensure that persons offering and tendering for public contracts are aware of the terms of the labour clauses to be inserted in accordance with the Ministerial Agreement of 21 November 1985, as well as information on the application of the Convention in practice.

Guinea (ratification: 1966)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> The Committee notes the information supplied by the Government in its report to the effect that there are no legal or practical difficulties in implementing this Convention. The Committee recalls that States ratifying this Convention undertake, amongst other things, to ensure that contracts awarded by a public authority which involve the employment of workers by the other party to the contract include clauses ensuring for the workers concerned conditions of labour which are not less favourable than those established for work of the same character in the trade or industry concerned in the district where the work is carried on *(Article 2 of the Convention)*, and that adequate sanctions are applied for failure to observe and apply such clauses *(Article 5)*.
>
> The Committee also notes that the Government again states that enterprises which are awarded public contracts are subject to the provisions of the Labour Code and of sectoral collective agreements. It recalls that the general application of national labour legislation to

> workers does not release the Government from its obligation to take the necessary steps to ensure the inclusion and application of labour causes, as required by the Convention. The Committee again expresses the hope that the Government will shortly take the necessary measures to ensure that such clauses are included in all the public contracts provided for in *Article 1, paragraph 1(c)*, and thereby give effect to the Convention, on which the Committee has been commenting for several years.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Mauritius (ratification: 1969)

With reference to its previous comments, the Committee regrets to observe that the Government is still not able to report any progress concerning the implementation of the Convention. The Committee recalls that for over 20 years the Government has been indicating its intention to take action to amend the Labour Act, 1975, with a view to giving legislative expression to the requirements of the Convention.

The Committee notes from the Government's report that the revised draft Employment Bill, elaborated with the technical assistance of the ILO, was submitted to the Government in August 1999 and is currently under consideration by a ministerial committee set up to consider its implications.

The Committee therefore again expresses the hope that the Government will soon adopt the new legislation giving effect to the provisions of the Convention and requests the Government to keep it informed of any progress achieved in this regard.

[The Government is asked to report in detail in 2003.]

Panama (ratification: 1971)

Further to its previous observation, the Committee notes the Government's reply and the attached documents, including the draft Bill to add a new paragraph to section 28 of Act No. 56 of 27 December 1995.

According to the Government's report, no progress has as yet been made with regard to the adoption of the draft Bill designed to give effect to the basic requirement of the Convention due to various circumstances such as the merging of the Ministries of Planning and Political Economy and the 1999 presidential elections. The Committee notes that, by letter dated 12 September 2000, the Ministry of Work and Labour Development (MITRADEL) has transmitted the draft Bill to the Ministry of Finance for approval and eventual submission to the Legislative Assembly. The Committee firmly hopes that this amendment will be adopted very shortly and requests the Government to keep it informed in its next report of any positive developments in this respect.

In addition, the Committee asks the Government to provide in accordance with *Article 6 of the Convention* and *Part V of the report form* all available information on the practical application of the Convention, including, for instance, copies of public contracts, model specifications for public tenders or sample text of labour clauses currently in use, official reports or statistics bearing on the enforcement of relevant legislation (e.g. number and nature of infringements observed and penalties imposed) and any other particulars regarding the practical fulfilment of the conditions prescribed by the Convention.

Philippines (ratification: 1953)

With reference to its previous observations, the Committee notes with regret that the Government has as yet been unable to take the measures necessary to give effect to the provisions of the Convention. The Committee has been pointing out for many years that, in order to give effect to the Convention, the Government has to enact legislation providing for the insertion of labour clauses in public contracts with a view to ensuring to the workers concerned wages, hours of work and other labour conditions not less favourable than those established for similar work, in the trade or industry concerned, in the same district, whether by collective agreements or by arbitration awards or by national legislation.

The Committee notes that the Government in its last report refers to Republic Act No. 6685 which seeks to promote the use of indigenous manpower in the execution of public works projects and to Presidential Decree No. 1594 of 11 June 1978 prescribing policies, guidelines, rules and regulations for government infrastructure contracts. However, the Committee is bound to observe that both enactments contain no provisions related to the wage levels, hours of work and other conditions of labour of the workers engaged in the execution of public contracts and thus are strictly irrelevant in the application of this Convention. The Committee therefore strongly suggests that the Government should take the necessary steps without delay to bring its legislation into conformity with the requirements of the Convention, which might possibly take the form of rules and regulations to be promulgated jointly by the Minister of Public Works, Transportation and Communications, the Minister of Public Highways, the Minister of Energy, and the Director-General of the National Economic and Development Authority under section 12 of the above-referenced Presidential Decree. While recalling that the technical assistance of the Office is at the Government's disposal to assist it in giving effect to the Convention, the Committee requests the Government to communicate in its next report any positive developments in this respect.

In addition, the Committee asks the Government to continue to provide in accordance with *Article 6 of the Convention* and *Part V of the report form* up-to-date and detailed information on the practical application of the Convention, including for instance copies of public contracts containing labour clauses, official reports or statistics bearing on the enforcement of relevant legislation (e.g. number and nature of infringements observed and penalties imposed) and any other particulars regarding the practical fulfilment of the conditions prescribed by the Convention.

Suriname (ratification: 1976)

The Committee notes the explanations provided by the Government in relation to the point previously raised by the Suriname Trade and Industry Association (VSB) as to the applicability of the general labour legislation to workers engaged in the execution of public contracts. The Government states in its report that, what is referred to as "contracting of work" in section 1613 of the Civil Code may be taken to describe the employment relationship between the Government and the public contractor, whereas the relationship between the public contractor and his employees is regulated by a labour contract (contract of employment). Accordingly, the labour legislation is always applicable to workers engaged in the execution of public contracts. The Committee takes note of this information but must again stress that the additional protection afforded by the labour clauses in public contracts cannot normally be ensured through the application of the general labour legislation and therefore the Government is not freed from its obligation to insert labour clauses in all public contracts covered by *Article 1 of the Convention.*

Article 1, paragraph 1(c)(ii) and (iii). The Committee has been drawing attention for several years to the "General regulations for the execution and maintenance of works under the control of the Department for Constructional Works, Transport and Waterways in Suriname", which provide for the insertion of labour clauses in contracts for public works, requesting the Government to take the necessary steps in order to extend the scope of those regulations to public contracts for the manufacture, assembly, handling or shipment of materials, supplies or equipment as well as to contracts for the performance or supply of services. In its reply to the Committee's previous direct request, the Government acknowledges that the mere fact of the national legislation being applicable to all workers does not fulfil the basic requirement of the Convention specified in *Article 2* of the Convention but states that no measures have as yet been taken to include labour clauses in public contracts other than those for public works. The Committee hopes that the Government will make every effort to take the necessary action in the very near future and asks the Government to keep it informed of any progress achieved in this respect.

Part V of the report form. The Committee notes that for many years the Government has not provided any information on the practical application of the Convention. In this connection, the Committee recalls that under *Part V of the report form* governments are requested to give a general appreciation of the manner in which the Convention is applied, including, for instance, extracts from official reports, information concerning the number of contracts and workers covered by relevant legislation, etc. This form, which was adopted by the Governing Body of the ILO, is the main channel through which the Committee may obtain all the necessary information in order to follow the evolution of national laws and practice in matters covered by the Convention. The Committee would therefore be grateful if the Government would provide in its next report detailed and up-to-date information on the practical application of the Convention, including copies of public contracts, the model text of the labour clause currently in use, information from inspection services on the supervision and enforcement of national legislation and any other particulars bearing on the practical fulfilment of the conditions prescribed in the Convention.

Turkey (ratification: 1961)

The Committee takes note of the Government's report and of the observations made by the Confederation of Turkish Trade Unions (TÜRK-İŞ) and the Turkish Confederation of Employer Associations (TISK). It once again notes that the comments made by TÜRK-İŞ are identical to those attached to the Government's reports of 1996 and 1997 and to those contained in the communication of TÜRK-İŞ dated 17 June 1996. The Government has already provided its response to the questions raised by TÜRK-İŞ following which the Committee has drawn up its own comments.

The Committee recalls its previous observation in which it requested the Government to supply information on the functioning of the control body under section 33 of the "General specifications for public works" and the inspection under section 4 of

Decree No. 88/13168, including the number and nature of infringements observed and sanctions applied. In its reply, the Government refers to the conditions under which the Council of Ministers may issue an order extending the terms of a collective agreement. The Committee notes this information but considers it irrelevant with reference to its request for specific information on the functioning of labour inspection or other enforcement machinery relating to the execution of public contracts. The Committee is obliged to recall that by ratifying an international labour Convention governments undertake to ensure not only legislative conformity with its provisions but also effective application of the implementing legislation in practice. The Committee therefore reiterates its request for detailed information bearing on the supervision and enforcement of the relevant legislation and hopes that the Government will make every effort to obtain and supply such information in accordance with *Article 6 of the Convention* and *Part V of the report form.*

With reference to public contracts for the manufacture and assembly of materials, the Committee recalls its previous comments in which it noted that such contracts appear to fall outside the scope of application of Decree No. 88/13168. In the absence of any concrete reply on this point, the Committee is bound to repeat its request for information on the measures taken or envisaged to ensure the insertion of labour clauses in accordance with *Article 2* of the Convention in all contracts covered by *Article 1(c)(ii)* of the Convention by means of extending the application of Decree No. 88/13168 or otherwise.

As regards measures to ensure that persons tendering for public contracts are aware of the terms of the labour clauses, as set out in *Article 2(4)* of the Convention, the Committee notes the Government's reference to section 6 of Decree No. 88/13168 which provides that in order to furnish the contractors with beforehand information concerning working conditions, it shall be cited in the specifications of the tender that provisions such as those to be included in the contract have been enclosed in the file concerned. The Committee also notes the Government's indication that the Decree and the "General Specifications" are the standard appendices to the public contracts, and thus the contractors are undoubtedly aware of the labour clauses. The Committee would be grateful to the Government for confirming whether in practice all invitations to tender for public contracts contain specific information on the labour conditions to be observed by the prospective contractor, as section 6 of Decree No. 88/13168 seems to require, and would appreciate receiving copies of such invitations.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Austria, Bulgaria, Cameroon, Costa Rica, Denmark, Finland, Grenada, Malaysia* (Sabah), *Mauritania, Netherlands, Saint Vincent and the Grenadines, Singapore, Swaziland, United Republic of Tanzania, Uganda, Yemen.*

Convention No. 95: Protection of Wages, 1949

Argentina (ratification: 1956)

The Committee takes due note of the information supplied by the Government in its report.

Deferred payment of wages. Further to its earlier observations regarding the persistent situation of wage arrears, the Committee notes the Government's statement that wage debts have only been reported for local public employees in the province of Jujuy, and municipal workers of the city of Villa Mercedes in the province of San Luis. The Committee also notes the Government's indication that, in other provinces such as Corrientes, where considerable delays in the payment of wages were previously observed, the situation has returned to normal and salaries are now being paid regularly. In several provinces, such as Chaco, a new arrangement for the payment of wages has been agreed upon whereby wage payments are spaced out over the first 15 or 20 days of each month so that low-pay workers are paid first while high-ranking civil servants and the governor are the last to receive their remuneration. While noting that progress is made as regards the settlement of wage arrears owed to workers in the public service, the Committee is bound to recall that the violation of the requirements of the Convention under *Article 12(1)* shall persist for as long as the Government has not taken effective measures for the outright elimination of the problem of wage arrears and the rapid settlement of any outstanding wage dues. It requests, therefore, the Government to continue to supply detailed information on the situation of wage payment in the provinces and the results achieved by indicating concrete and specific measures taken in this regard.

Benefits to improve the nutrition of workers and their families. The Committee has been requesting the Government for some years to reconsider its legislation so that the coverage of wage protection be extended to "social benefits" of "non-remunerative" character, as described under Act No. 24.700 of 25 September 1996, such as the benefits to improve the nutrition of the worker and his/her family. The Committee notes that, in its report of 29 June 2000, the Coordination of International Affairs of the Ministry of Labour and Social Security has referred to the incompatibility of the said Act with the Convention and has considered it necessary to suggest that the Congress should repeal the 1996 Act in order to bring national legislation into conformity with the provisions of the Convention. However, the Government offers no indication as to whether it intends to take any concrete action to this effect. The Committee stresses once again that under the terms of the Convention wage protection should cover all forms of remuneration or earnings, as defined in *Article 1 of the Convention*, thus including food coupons and other benefits aimed at improving the quality of life of the worker and his/her family. It reiterates the hope that the Government will take all necessary steps in the very near future to ensure full compliance with the requirements of the Convention.

The Committee would appreciate receiving up-to-date information on the application of the Convention in practice and the measures by which effect is given to its provisions in accordance with *Article 16* of the Convention.

Belarus (ratification: 1961)

The Committee notes with satisfaction the adoption of the Decision of the Council of Ministers of 28 April 2000 (Text No. 603) on the approval of the list of goods prohibited as a means of payment of wages in kind by the employers, in particular the payment of wages in the form of alcoholic beverages or narcotic substances.

The Committee is also addressing a request directly to the Government.

Bolivia (ratification: 1977)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee recalls that, in its earlier requests, it referred to the comments it made in 1983 concerning the application of Convention No. 117, regarding alleged abuses in the payment of wages to agricultural workers, in the form of pay stoppages and delay in the payment of wages as a means of inducing workers to remain in agricultural establishments, and the non-payment of wages due and advances on wages, which cause indebtedness among the workers and compel them to remain in the service of landowners until their debts are paid off. These allegations were presented in August 1977 by the Anti-Slavery Society for the Protection of Human Rights to the Working Group on Slavery of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities.
>
> The Committee notes with regret that the Government has not supplied information in this respect. It once again requests the Government to indicate whether it has conducted investigations into the abovementioned allegations and to provide any available information. The Committee also requests the Government to provide information in accordance with *Part V of the report form* on the application in practice of the Convention in agriculture.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

The Committee is also addressing a direct request to the Government concerning certain points.

Brazil (ratification: 1957)

The Committee notes the Government's report and the annexed documentation. With reference to the settlement of the remaining 56 cases of outstanding wage debts owed to ex-employees of the Technical Assistance and Rural Development Enterprise (EMATER) of the State of Minas Gerais, the Committee notes the Government's statement in reply that out of 338 cases involving that company as defendant, 210 cases were dropped while 128 others are still pending before the Labour Court. Noting the discrepancy between the figures communicated by the Government in its last two reports, the Committee would appreciate receiving further clarifications on the exact number of outstanding wage claims. It also asks the Government to report on any further progress made towards the final settlement of the amounts due.

Moreover, the Committee notes the statistical information supplied by the Government concerning the infringements of labour legislation on wages for the period 1997-99. It also notes the Government's statement to the effect that the greatest number of violations reported relate constantly to wage arrears. In fact, according to the Government's report, in 1997, proceedings were initiated in 8,312 cases of wage arrears representing 51 per cent of all wage-related proceedings, the corresponding figures for 1998 and 1999 being 7,035 (48 per cent) and 6,566 (46 per cent) respectively. Similarly, in the first quarter of 2000, there were 1,304 prosecutions regarding wage arrears representing 41 per cent of all the irregularities prosecuted in the field of compliance with labour legislation on wage protection.

Finally, the Committee notes with interest the recent enactment of Ministerial Order No. 1.601 of 1 November 1996 relating to the organization and processing of wage debt proceedings as well as Law No. 9.777 of 29 December 1998 amending the

Criminal Code with a view to strengthening law enforcement against degrading labour practices especially in rural areas. In the light of its previous observations made in conjunction with its comments on Conventions Nos. 29 and 105, the Committee hopes that these legislative measures will prove effective in enhancing compliance with the labour legislation on wage protection. The Committee would be grateful if the Government would continue to supply practical information on the supervision but also on the imposition of appropriate penalties to prevent and punish infringements of national laws and regulations giving effect to the Convention.

Bulgaria (ratification: 1955)

The Committee notes with satisfaction the repeal of Regulations No. 1 of 30 July 1991 on the conditions and procedures for the carrying out of intermediary activities in supplying information and placement. Under section 6 of the repealed Regulations, fees could be charged by the intermediary to the person seeking employment for the mediation in obtaining an employment contract – up to 25 per cent of the first monthly wage received. The issue is now regulated by a new Ordinance which came into force on 1 January 1999, section 15 of which provides that the intermediary and the employer may freely negotiate the remuneration due for the services rendered but that such remuneration cannot be deducted from the wages of the employed person.

The Committee is raising other points in a request addressed directly to the Government.

Central African Republic (ratification: 1960)

The Committee previously noted the observations made by the Democratic Organization of African Workers' Trade Union (DOAWTU) concerning the delay of wage payment to workers in the public and semi-public sector for the last six years. In its reply, the Government states that the failure to ensure the regular payment of wages is not a deliberate act but one of the many consequences of the three rebellions in 1996 and 1997 which crippled the national economy. It adds that the problem of arrears in wage payment will be addressed as a matter of priority. The Government's communication, however, does not respond to the Committee's request for detailed information on the practical application of *Article 12(1) of the Convention*, including a particular reference to the situation in the public and semi-public sectors. The Government simply refers to section 105 of the Labour Code. However, recalling that in the absence of documented information it is difficult for the Committee to evaluate the effective application of section 105 in implementation of *Article 12* of the Convention, the Committee requests the Government to provide full and up-to-date information on: (i) the actual size of outstanding debts due to wage-earners (number of workers affected, length of the delay in payment and total amount of sums owed, number and nature of establishments concerned); (ii) the concrete measures taken to improve the present situation, including measures to ensure effective supervision, strict application of penalties, and adequate compensation of workers' loss from the delayed payments; and (iii) the results obtained.

The Committee is also addressing a request directly to the Government.

[The Government is asked to report in detail in 2002.]

Colombia (ratification: 1963)

1. The Committee notes the comments made by the Union of State Workers of Colombia (UTRADEC), which were received in February 2001 and transmitted to the Government on 22 March 2001. The Government's comments thereon were received on 31 August 2001. In April 2001, other comments were received from the Union of the Administradora de Seguridad Limitada (SINTRACONSEGURIDAD), which were transmitted to the Government on 21 May 2001. The Government has not replied to the latter comments.

2. The comments by the Union of State Workers of Colombia alleged that the municipality of Popayán owes them six months' wages. This situation includes both active employees and pensioners. The workers' organization also refers to a restructuring which is being undertaken with a view, according to the organization, to abolishing the posts of trade union leaders and unionized employees. In reply, the Government indicates that, according to the information from the municipality of Popayán, the payment of wages has been continued, although with certain difficulties due to the economic situation. This has meant that the above municipality has had to apply Act No. 550 of 1999 with a view to restructuring its debts. The Government also indicates that the process that is being undertaken in the municipality is intended to rationalize expenditure and improve income with a view to ensuring that in future income is higher than expenditure. The Committee notes the Government's explanations and recalls that one of the fundamental principles of Convention No. 95 is to protect the wages of workers irrespective of the sector in which they work and irrespective of the situation experienced by public administrations. The Committee therefore once again hopes that the Government will take all the necessary measures to ensure that the wages of workers in the municipality of Popayán are paid regularly and in time in accordance with *Article 12 of the Convention* (payment of wages at regular intervals).

3. The Committee also notes the comments received from the Union of the Administradora de Seguridad Limitada (SINTRACONSEGURIDAD) alleging the failure to pay the wages of workers due to the closure of the enterprise. The trade union indicates in its allegations that this enterprise, the Administradora de Seguridad Limitada, established by the Banco Cafetalero, registered with the Ministry of Agriculture, is a mixed economy enterprise. As noted above, these comments were transmitted to the Government, which had not provided its comments before the Committee's meeting. The Committee therefore requests the Government to provide its comments as soon as possible on the allegations of the SINTRACONSEGURIDAD and, in any event, to take the necessary measures to guarantee the payment of the wages due to workers in accordance with *Article 11* of the Convention (payment of the wages of workers in the event of bankruptcy or judicial liquidation).

4. With reference to its previous comments, the Committee recalls that it requested the Government to report in detail in 2002 concerning the comments made by various trade unions alleging the failure to apply the provisions of this Convention. While awaiting the provision by the Government of the requested report, the Committee recalls the matters raised in its previous observation.

5. With reference to the comments made by the General Confederation of Democratic Workers claiming, among other matters, the payment of wages for workers in various municipalities, the Committee noted the Government's reply and requested it

to provide information on the situation in the various municipalities on which indications had not been provided, including information on the measures adopted to ensure compliance with the right of workers to receive their wages and to ensure the payment of the wages due to these workers. The Committee reiterates its request and hopes that the Government will provide the requested information with its next report.

6. The Committee noted the comments made by the Union of Maritime and River Transport Workers (UNIMAR) alleging non-compliance by the Government with *Articles 11 and 12* of the Convention. The Committee had urged the Government to take the necessary measures to ensure that the workers receive their wages at regular intervals *(Article 12)* and, in the event of the judicial liquidation of the enterprise, also to ensure that they are treated as privileged creditors *(Article 11)*. The Committee reiterates its previous request and hopes that the Government will provide information in its next report on the measures adopted to secure compliance with the above rights of workers in the Grancolombia Merchant Fleet, which is the property of the Coffee Producers Federation.

7. The Committee recalls that in its previous observation it noted the comments made by the World Federation of Trade Unions (WFTU) and the Yumbo subdivision of the National Union of Chemical Industry Workers of Colombia (SINTRAQUIM) alleging non-compliance with the provisions of *Article 12, paragraph 2*, of the Convention (final settlement of wages due) by the enterprises Whitehall Robins Laboratorios Ltd. and American Home Products International. The above comments were transmitted to the Government in July 2000. However, the Government has not yet commented thereon and the Committee hopes that the Government will provide its comments sufficiently early for the Committee to be able to examine them appropriately.

8. Finally, the Committee recalls that in its previous observation it noted that the comments of the Union of Public Employees of the Medellín subdivision (SINDESENA) had been sent to the Government in November 2000 and it requested the Government to provide information on the measures adopted to respond to the claims of the workers alleging the need for the Government, in compliance with a recommendation of the Constitutional Court of Colombia, to make the corresponding adjustment to their wages. The Committee hopes that the Government will provide its comments sufficiently rapidly for the Committee to be able to examine them appropriately.

[The Government is again asked to report in detail in 2002.]

Comoros (ratification: 1978)

The Committee notes with interest that the first meeting of the Higher Labour and Employment Council (CSTE) was held on 26 and 27 September 2001 with the technical and material assistance of the ILO. In its report the Government indicates that, during the first session of the CSTE, a number of draft texts to be issued under the Labour Code were submitted and endorsed by the social partners. With regard to the problem of wage arrears, the Government states that it hopes to find a feasible solution for the reimbursement of wage arrears in the context of the CSTE.

The Committee also notes the comments made by the Federation of Autonomous Comorian Workers' Organizations (USATC), to the effect that the Government has not made an effort to resolve the problem of the payment of wage arrears. Moreover, the USATC reports that the Government has broken off social dialogue to avoid the problem. It adds that employees are suffering the effects of the failure to pay wages and of the freeze on careers upon the pension scheme of the Comoros Retirement Fund. The USATC also states that the wages of public officials have been suspended under abusive conditions by the Ministry of the Public Service, Labour and Employment. The Committee notes the Government's reply to the effect that state officials have not suffered any delay in the payment of wages in 2001.

While noting that the Government reaffirms its commitment to seek a consensus solution to the reimbursement of wage arrears, the Committee is bound to urge the Government once again to take the necessary measures to ensure in practice the regular payment of wages and the total reimbursement of arrears. It also requests the Government to provide detailed information on any developments in the situation and the measures taken in this respect.

Congo (ratification: 1960)

Further to its previous observation, the Committee notes the Government's report and asks the Government to supply further information as required.

With respect to the situation concerning the ongoing irregular payment of the wages of state employees, the Committee notes the Government's statement to the effect that the country strives to recover from a destructive war, and, therefore, the question of the settlement of wage arrears depends on the outcome of the post-conflict plan elaborated with the assistance of international financial institutions. The Committee can only hope that the Government will not fail to take appropriate action in the very near future to ensure the timely payment of wages of public officials and the prompt settlement of wage debts already outstanding, including the wages due for the period between 1992 and 1996 in the public service as well as the sums due to the former workers of the Ogoué Mining Company (COMILOG).

The Committee urges the Government to adopt all necessary measures to give full effect to the recommendations of the committees set up to examine the representations made under article 24 of the Constitution by the Trade Union Confederation of Congo Workers (CSTC) and the International Organization of Energy and Mines (OIEM) in 1995 and 1994 respectively (GB.268/14/6 and GB.265/12/6). It requests the Government to provide information on any progress achieved in this respect.

[The Government is asked to report in detail in 2002.]

Costa Rica (ratification: 1960)

1. With reference to its previous comment, the Committee notes the information provided by the Government concerning the comments made by the Union of Employees of the Ministry of Finance (SINHAC) concerning the failure to pay overtime hours performed by workers, and the comments made by the Confederation of Workers Rerum Novarum (CTRN) and SINDHAC alleging non-compliance with *Articles 8 and 9* (deductions from wages) *and 14* (information on particulars of wages) *of the Convention*.

2. With reference to SINDHAC's first allegation, the Committee notes the action taken by the Government, and particularly by the Ministry of Labour and Social Security and the National Directorate of Labour Inspection, resulting in a positive solution to the problem raised by the organizations concerned.

3. With regard to the allegations of the CTRN and SINDHAC concerning *Articles 8, 9 and 14* of the Convention, the Committee notes the information provided by the Government concerning the action taken to suspend implementation of the administrative instruction lowering the wages of workers who participated in the strike in July and August 1999.

4. However, the Committee regrets to note that the Government has not reported in detail as requested and has failed to provide information concerning the comments made by certain organizations alleging violations of certain provisions of the Convention and on other matters to which the Committee has been drawing attention for a number of years. The Committee therefore urges the Government to provide the requested information on the following points.

5. The Committee had noted the observations made by the Transport Workers' Union of Costa Rica (SICOTRA), forwarded to the Government on 11 September 2000, and those made by the Confederation of Workers Rerum Novarum (CTRN), forwarded to the Government on 22 September 2000, in relation to the failure to comply with *Article 8*, principally, and also with *Articles 9 and 14* of the Convention. The above organizations indicate in particular that workers in certain public transport enterprises are subject to wage deductions in a systematic manner. The owners of these enterprises make wage deductions to compensate for losses caused by the malfunctioning of the system for the electronic registration of users of the above services and for breakdowns suffered by the vehicles, or traffic accidents. Such wage deductions are practised with a view to workers being able to keep their jobs. The Committee requests the Government to provide information on these practices which may be considered to be violations of the wage protection provisions set out in *Article 1* (definition of the term "wages"), *Articles 8 and 9* (deductions from wages) *and Article 14* (information on the particulars of wages) of the Convention, and it hopes that the Government will take the necessary measures to ensure compliance with the Convention.

6. The Committee recalls that it had referred previously to an observation made by the Confederation of Workers Rerum Novarum (CTRN) concerning the failure to comply in particular with *Article 12, paragraph 1* (regular payment of wages). The Committee had requested the Government to provide information on the measures taken to ensure compliance with the provisions of the Convention in the road transport sector, including for example extracts of official reports and records of inspections. The Committee notes that the Government has not yet provided any information in this respect and therefore requests it to do so in its next report.

7. The Committee recalls that it expressed its concern at the Government's persistent silence in relation to the comments made by certain workers' organizations. In this respect, the Committee recalls that the Government did not provide the information requested in its previous comment concerning the comments made by the Association of Customs Officers (ASEPA).

8. The Committee therefore hopes that the Government will soon provide detailed information on the various comments made by the above workers' organizations.

9. Furthermore, the Committee regrets to note that the Government has not made any specific reply to its previous comments concerning the failure to apply certain Articles of the Convention. It therefore urges the Government to provide information on the following matters, which it has been raising for some years.

Article 3, paragraph 1. For several years, the Committee has been requesting the Government to adopt the necessary measures to resolve the incompatibility between the wording of section 165(3) of the Labour Code, which provides that coffee plantations may provide workers, in place of cash, with any representative token of the currency, provided that its conversion into cash is verified within a week of it being issued, and this Article of the Convention, which provides that wages payable in money shall be paid only in legal tender, and that payment in the form of promissory notes, vouchers or coupons, or in any other form alleged to represent legal tender, shall be prohibited. The Committee considers that, even though the intention of the above section of the Labour Code is to contribute to controlling the quantities harvested in the above plantations, as indicated by the Government in its previous reports, and despite the Government's expressed intention to repeal the section as a whole, this provision is not sufficiently clear and precise to comply with the requirements of this Article of the Convention. Having noted once again that the wording of section 165(3) has not undergone any amendment, the Committee requests the Government to make every effort to amend this provision of the Labour Code so as to bring it into conformity with the Convention.

Article 4, paragraph 2. With regard to the adoption of appropriate measures to ensure that allowances in kind are appropriate for the personal use of the worker and his family, and that the value attributed to them is fair and reasonable, as provided in this Article of the Convention, the Committee once again notes that the Government's last report still fails to mention the adoption of the regulations envisaged under section 2 of Decree No. 11324-TSS respecting the evaluation of allowances in kind. The Committee therefore urges the Government to take the necessary measures in the near future to complete the preparation of the draft regulations and to proceed to their adoption.

[The Government is asked to report in detail in 2002.]

Côte d'Ivoire (ratification: 1960)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> With reference to its previous comments, the Committee recalls that it noted the comments of the Trade Union International of Chemical, Oil and Allied Workers (communicated by a letter of 9 March 1988), on the application of *Article 12, paragraph 2, of the Convention*. These comments allege that workers who are members of the Union of Offshore and Onshore Workers of Côte d'Ivoire (SYNTRAOFFCI), who were recruited by intermediary companies on behalf of oil companies, did not receive certain amounts owed as a final settlement of all wages due upon termination of their contracts in 1984.
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> In its report the Government indicates that after fruitless attempts at an out-of-court settlement, first by means of an ad hoc committee set up for the purpose, then before the Labour Tribunal of Abidjan, two judicial decisions on the matter have now been handed down: the first by the Abidjan Labour Tribunal (on 25 February 1986), and the second by the Chamber for Social Affairs of the Abidjan Court of Appeal (on 24 June 1988). The Government further states that the companies involved in this matter have now disappeared from the territory of Côte d'Ivoire and that SYNTRAOFFCI has now been split into two

> separate unions, whose present leaders know nothing of the matter and have taken no steps to execute the Court of Appeal's decision. The Government considers that action on its part is therefore not required.
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> The Committee takes due note of this information. It notes that the abovementioned decision handed down by the Court of Appeal (24 June 1984) orders the company SOAEM-CI to pay certain amounts as a final settlement of all entitlements due to 11 workers who were dismissed owing to the "ivorization of jobs". The Committee asks the Government to indicate whether this decision has been executed and whether there have been any other judicial decisions on this matter.
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> The Committee also asks the Government to indicate the general steps taken to ensure the application of the Convention in situations similar to that of the offshore workers recruited by intermediary companies, particularly as regards final settlements upon termination of work contracts *(Article 12, paragraph 2)*, the information given to workers on wage conditions *(Article 14(a))* and the definition of the persons responsible for compliance with laws and regulations on the payment of wages *(Article 15(b))*.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Cyprus (ratification: 1960)

The Committee notes the Government's report as well as the adoption of the Law on Private Employment Agencies No. 8(I) of 1997, Law No. 134(I) of 1999 amending the Civil Procedure Act, and the Law on the Employer's Obligation to Inform the Employee on the Conditions Applicable to the Employment Contract or Relationship No. 100(I) of 2000, which contain provisions giving effect to certain requirements of the Convention.

The Committee nevertheless regrets that, despite its repeated comments in the last 40 years, specific legislation has still to be enacted for the application of *Articles 3* (wage payment in legal tender), *4* (restrictions on partial payment of wages in kind), *6* (free disposal of wages), *8* (restrictions on wage deductions), *10* (restrictions on attachment and assignment of wages), *13* (time and place of payment) *and 15(d)* (maintenance of payroll records) *of the Convention*. It also notes with concern that the Government continues to rely principally on practice for the implementation of the Convention. While noting the Government's statement that the effort to take additional measures, legislative or other, that are necessary to implement the Convention will be resumed in the near future, the Committee is bound to recall that the principal obligation for a government arising out of the ratification of an international labour Convention is to take such action as may be necessary to incorporate the requirements of the ratified Convention into the national legal order. The fact that, as indicated in the Government's report, the application of wage protection legislation has not so far given rise to any complaints does not absolve the Government from its obligation to give legislative expression to the standards laid down in the Convention.

The Committee hopes that the Government will take, without further delay, whatever steps may be necessary to ensure full legislative conformity with the Convention.

[The Government is asked to report in detail in 2002.]

Djibouti (ratification: 1978)

Further to its previous observation, the Committee notes the Government's indication that the problem of wage arrears was due to internal political conflicts which prevented the national administration from functioning properly. According to the information supplied by the Government in its report, these difficulties have now been overcome and as a result the Minister of Finance publicly announced in October 2000 that wage arrears would be settled with a first payment to be made before 20 November 2000. The Committee notes, however, that according to a press report, a copy of which was annexed in the Government's report, the settlement of existing wage arrears would only be made possible through foreign financial aid which a neighbouring country was expected to offer. Recalling that in the absence of documented information it is difficult for the Committee to appreciate the nature and scale of the problem, the Committee requests the Government to provide full and up-to-date information on: (i) the actual size of outstanding debts due to wage earners (number of workers affected, amount of sums owed, length of the delay in payment, number of enterprises concerned); and (ii) the concrete measures taken to improve the present situation, including measures to ensure effective supervision and strict application of penalties to prevent and punish infringements. It also asks the Government to provide a copy of the 1998 Act on Finance referred to in the joint communication of the Labour Union of Djibouti and the General Union of Djibouti Workers (UDT/UGTD) dated 26 April 1998.

[The Government is asked to report in detail in 2002.]

Egypt (ratification: 1960)

The Committee notes the Government's report.

While taking due note of the Government's indication that a unified Labour Code is currently under preparation, the Committee observes with regret that no progress has as yet been made regarding measures to ensure that full effect is given to the provisions of *Article 4, paragraph 2, of the Convention*. The Committee recalls that in the interest of protecting workers from abuse, the Convention requires appropriate measures to ensure that allowances in kind are appropriate for the personal use and benefit of the worker and his/her family and also that the value attributed to such allowances is fair and reasonable.

Moreover, the Committee notes that section 39 of the Labour Code, Act No. 137 of 1981, provides that no worker shall be required to purchase foodstuffs or other articles in any specified establishment or to buy any product supplied by the employer. In this respect, the Committee recalls that *Article 6* of the Convention calls for a legislative provision formally prohibiting employers from limiting in any manner the freedom of workers to dispose of their wages. The Committee is bound once again to express the firm hope that in the ongoing process of drafting the unified Labour Code the Government will not fail to take the necessary action to bring its legislation into full conformity with the Convention. It asks the Government to report on any developments in this regard.

Greece (ratification: 1955)

With reference to its previous observation, the Committee notes the Government's report.

The Committee can but note with regret that the Government is still unable to take the necessary legislative steps to give effect to the provisions of *Article 4 of the Convention* concerning the partial payment of wages in kind, and the provisions of *Article 7, paragraph 2*, concerning the prices charged in stores established and for services operated by the employer.

The Committee recalls that it has been commenting for more than 40 years on the application of these Articles and that the Government has several times stated its intention of introducing the necessary measures to bring its legislation fully into conformity with the requirements of the Convention.

The Committee notes that in its last report the Government indicates that the collective agreements in force do not provide for the payment of wages in kind. It also notes the Government's statement that it has not been necessary to enact specific legislation concerning company stores since no complaints of this nature have been received from workers.

The Committee is bound to recall once again that the two provisions it has been commenting on for many years require specific measures by the competent authorities for implementation. Consequently, the Committee again urges the Government to do its utmost to take the necessary legislative or regulatory steps in the very near future in order to give effect to the provisions of the Convention.

[The Government is asked to report in detail in 2002.]

Italy (ratification: 1952)

The Committee notes the Government's report together with its annexes and, in particular, the detailed information concerning the application of *Articles 10, 11 and 14 of the Convention*. It also notes Legislative Decree No. 152 of 26 May 1997 on the employer's obligation to inform the worker about the conditions applicable to the employment contract or relationship.

Article 4(1). Further to its earlier comments, the Committee notes the extensive explanations supplied by the Government regarding payment of wages in the form of allowances in kind. In essence, the Government reiterates its earlier statements to the effect that remuneration in kind is a type of remuneration of a residual nature which is applied in certain employment contracts (domestic, agricultural, fishing, porterage), that the cash equivalent of benefits in kind is determined by collective agreements, and that recourse to wage payment in kind is in practice partial and marginal. In addition, the Government supplies information on the increasing use of so-called "fringe benefits" such as the canteen service and the problems to which such practices have given rise, especially with respect to monetary valuation and taxation.

The Committee can only observe, however, that the inconsistency between the national legislation and the Convention to which the Committee has been drawing attention for several years still remains to the extent that section 2099 of the Civil Code does not exclude the possibility of payment of wages wholly in the form of allowances in kind. The Committee recalls that *Article 4* of the Convention only permits partial payment of wages in the form of allowances in kind *(paragraph 1)* and that where such payment is authorized, measures should be taken to ensure that such allowances are appropriate for the personal use and benefit of the worker and his/her family *(paragraph 2(a))*. The Committee hopes that the Government will take whatever steps may be necessary without further delay to ensure that remuneration in kind is limited to a fraction of the wage in accordance with the clear terms of the Convention. It asks the Government to continue to supply information on this matter, by indicating concrete measures adopted to this end rather than offering lengthy statements of a general nature.

Kyrgyzstan (ratification: 1992)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the detailed information supplied by the Government in its report, including texts of relevant legislation and descriptions of the application of the Convention in practice. The Government refers in particular to difficulties in applying *Articles 4* (regulation of wage payment in kind), *7* (works stores and services), *8* (deductions from wages), *10* (attachment and assignment of wages) *and 12* (regular payment of wages and the final settlement) *of the Convention*. The Committee notes this information with concern and hopes that the Government will take all possible measures to overcome these difficulties.
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> The Committee, however, appreciates the Government's attitude about providing information on the problems it is faced with and suggests that the Government request technical assistance of the Office. It would be grateful if the Government would continue to communicate information on the measures taken or envisaged in this regard as well as on any improvement in the situation.

The Committee asks the Government to provide information on particular points raised in the request which it is addressing directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Libyan Arab Jamahiriya (ratification: 1962)

The Committee notes the Government's report and the explanations given in response to the comments made in October 2000 by the International Confederation of Free Trade Unions (ICFTU) concerning the situation of sub-Saharan migrant workers in Libya.

The Committee recalls that, according to the allegations of the ICFTU, thousands of workers from different African countries have been forced to leave the country without receiving the wages owed to them. In its reply, the Government dismisses the allegation that all Africans have been expelled from the country regardless of their situation and states that there are at present thousands of foreign workers, African and others, with valid work authorizations and residence permits in the country. The Government adds that the displacement of some African illegal immigrants was undertaken in full coordination with their respective home countries and that Libya covered all the costs of their repatriation. Moreover, the Government indicates that no complaint has so far been received from any citizen or trade union organization in connection to those allegations and that it would be ready to hear any such complaint and eventually make full restitution in accordance with national laws applicable in this matter. As regards the violent incidents reported in the communication of the ICFTU, the Government considers the news accounts on those events to be grossly exaggerated and in any event unrelated to labour matters.

The Committee notes this information. It hopes that the Government will take all measures with a view to establishing whether any amounts are due to the workers who were expelled, and eventually settling such outstanding payments. The Committee would appreciate receiving further details on the circumstances surrounding the deportation of the foreign workers considered to be illegal immigrants, in particular the levying of money, if any, by the Libyan immigration authorities. In addition, the Committee requests the Government once again to supply full information on the measures taken to ensure the final settlement of wages for the Palestinian workers, other than those with employment permits and formal contracts, on which the Committee has been commenting for many years.

In addition, a request regarding other points is being addressed directly to the Government.

[The Government is asked to report in detail in 2002.]

Mauritania (ratification: 1961)

The Committee notes the Government's brief report and the information supplied in reply to previous comments concerning the final settlement of all the wages due to the persons expelled from Mauritania following the events of April 1989, in accordance with *Article 12, paragraph 2, of the Convention*. In its report, the Government affirms that all the persons obliged to leave Mauritania in 1989 promptly recovered their wages due since 1996 on each occasion when they appeared before the technical service concerned or the competent legal authority. The Government adds that it gave instructions for speedy processing of all claims from persons obliged to leave the country in 1989. In addition, the Government states that there are no specific statistical records for these persons since their claims were handled in an anodyne and routine fashion.

In the absence of concrete information supporting this statement, the Committee is bound to draw the Government's attention once again to the conclusions adopted by the ILO Governing Body in 1991 following examination of the representation made by the National Confederation of Workers of Senegal under article 24 of the ILO Constitution and to request it to supply detailed information on the wage payments already made, the amounts paid and the number of workers concerned. The Committee reminds the Government that technical assistance from the Office is always available to it and hopes that the Government will do its utmost to speed up final settlement of the problem on which the Committee has been making comments for many years.

[The Government is asked to report in detail in 2002.]

Republic of Moldova (ratification: 1996)

The Committee notes the conclusions and recommendations of the committee set up to examine the representation made by the General Federation of Trade Unions of the

Republic of Moldova, under article 24 of the Constitution, alleging non-observance by the Republic of Moldova of Convention No. 95 (document GB.278/5/1, 278th Session, June 2000). Bearing in mind the conclusions contained in paragraphs 20 to 35 of the report, the above Committee recommended that the Government should be invited to supply detailed information on all measures taken or envisaged with a view to:

(i) ensure the regular payment of wages, in particular regarding the ongoing legislative reforms to improve the supervision of the application of labour laws, including the establishment of a Labour Inspectorate, and the progress in the discussions with the most representative workers' organizations to agree on a yearly schedule for the payment of wage arrears; and

(ii) put an end to the practice of partial payment of wages in the form of alcoholic drinks and tobacco products or any other allowance in kind which would be in violation of the provisions of Convention No. 95, and in particular on the nature of institutions or agencies responsible for the enforcement of relevant laws and regulations, the number of complaints investigated or infringements observed and the nature of sanctions imposed.

Wage arrears

In its report, the Government states that a series of measures have made it possible to reduce the overall amount of wage arrears from 552.1 million lei in January 2000 to 475.2 million in October 2000, that is a 14 per cent decrease. Significant reductions were observed in some sectors such as education where wage arrears dropped from 88.7 to 60.8 million lei, or a 31.5 per cent decrease, and the health sector where arrears fell by 22.5 per cent from 66.4 to 51.5 million lei. The average delay in the payment of wages was 2.1 months ranging from 0.7 to 1.7 months in industry, trade, transport, education and culture, to 3 to 4 months in agriculture, health and public administration. Agriculture, including the industry related to agricultural products, accounted for 58 per cent of all accumulated arrears in the non-budgetary sector.

With regard to legislative and administrative measures, the Committee notes the adoption of Government Resolution No. 927 of 9 September 2000 by which companies with accumulated wage arrears cannot increase wage scales until they have paid off all due wages, and Resolution No. 985 of 27 September 2000 which provides that, in case of partial payment, company managers may only receive the same proportion of their salaries as their employees. By resolution No. 468 of 18 May 2000, the Government defined the payment of wages and pensions as one of the priorities in the execution of the state budget. In addition, on 15 June 2000, the Government amended Act No. 491-XIV of 9 July 1999 concerning the local public finances to the effect that funds transferred from the state budget to the treasury of regional authorities must be used as a matter of priority for the payment of the wages of employees of institutions financed by administrative-territorial units. In September 2000, the Parliament adopted the plan of reform of the system of remuneration including action to ensure the timely payment of wages. The Government further indicates that in 2000, new draft laws were elaborated on minimum-wage fixing, protection of wages, and labour inspection as well as a new consolidated text of the Labour Code. The Government also refers to paragraph 73 of the National Collective Agreement of 1998 which expands the liability of managers and provides that officials responsible for the non-payment of wages who admit having misused financial resources destined to pay workers' wages shall be punished in conformity with the laws in force.

While noting that, according to the figures provided by the Government, there have been some signs of improvement in certain branches of the state-owned sector, the Committee is bound to observe that the situation remains particularly serious especially in the non-budgetary sector. The Committee has been emphasizing the importance of such measures as: (i) effective supervision; (ii) imposition of appropriate penalties to prevent and punish infringements; and (iii) steps to make good the prejudice suffered. The information supplied by the Government does not permit to conclude that all possible measures have been exhausted in any of these three aspects. In particular, the Committee notes with concern that little progress has been recorded in the effort to create a Labour Inspectorate which would have facilitated the systematic control of the application of national legislation. The Committee requests the Government to continue to provide information on all relevant measures taken to ensure the regular payment of wages and a rapid settlement of outstanding wage arrears in conformity with *Article 12(1) of the Convention*. Recalling paragraph 36(a)(i) of the report of the committee set up to examine the representation made by the General Federation of Trade Unions under article 24 of the Constitution, the Committee requests the Government to provide up-to-date information in its next report on the number of workers affected and the type and number of establishments concerned as well as on the number of punishable offences observed and the sanctions imposed, including any relevant court decisions. The Committee also asks the Government to make available to the Office the text of any legislative or regulatory acts such as Government resolutions which have not been supplied previously.

Payment of wages in kind

The Committee takes note of the information contained in the Government's report regarding the payment of wages in the form of alcoholic drinks. According to the results of an inspection carried out in 99 establishments throughout the country, following the allegations of the General Federation of Trade Unions about the extensive practice of supplying alcoholic drinks in lieu of money, 14 enterprises were found to offer alcohol in lieu of wages in cash. In total, 2,586 workers were affected by such practice, or 0.36 per cent of the total workforce, while alcoholic drinks represented 2.2 per cent of all payments in kind, or 0.16 per cent of the country's nine-month wage bill. The Committee also notes the Government' s indication that cash remuneration is replaced by alcohol upon the written request of workers on specific family occasions (e.g. weddings, funerals, etc.). To the Government's knowledge, workers were in no case imposed the payment of wages in the form of alcoholic drinks. The Government adds that there have been no reports of wages being paid in the form of narcotic substances.

In the Committee' s opinion, the above information based on a sample survey gives alarming evidence of the ongoing practice of substituting alcohol for money wages. While noting that the Government insists that the problem is limited to a few isolated cases and that such practice only occurs on the workers' express request, the Committee is obliged to recall that *Article 4(1)* of the Convention prohibits the payment of wages in the form of alcoholic drinks or of noxious drugs in any circumstances. The Committee further considers that the Government has primary responsibility in the enforcement of this prohibition and should do therefore its utmost in order to definitively eradicate such practice.

The Committee therefore urges the Government to make a clear commitment to put an end to this violation of the Convention and to take all necessary measures to ensure that the partial payment of wages in kind, when authorized, meets the strict requirements laid down in the Convention. Recalling paragraph 36(a)(ii) of the report of the committee set up to examine the representation made by the General Federation of Trade Unions under article 24 of the Constitution, the Committee asks the Government to supply, in particular, concrete information on: (i) the scale of the problem consisting in replacing cash remuneration by alcohol or tobacco; (ii) the enforcement of existing legislation and the results obtained; and (iii) any steps taken for improving the legislative or regulatory framework with regard to payment of wages in kind.

In addition, a request regarding other points is being addressed directly to the Government.

[The Government is asked to report in detail in 2002.]

Nicaragua (ratification: 1976)

Following up on its previous observation, the Committee notes the statistical information supplied by the Government regarding the application of the Convention in practice. According to the figures provided in the Government's report, in 1999, as many as 1,400 labour inspection visits were carried out and 421 cases of non-compliance with wage legislation were observed, representing 8 per cent of the total number of violations of labour legislation and affecting 7,677 workers. The Committee notes, however, that the Government has not fully replied to the request for comprehensive information on the administrative, legislative or other measures to ensure the timely payment of wages and the rapid settlement of any wage arrears already outstanding, including the effective enforcement of dissuasive sanctions for the non-payment of wages. The Committee recalls that the problem concerns the implementation in practice of national labour legislation giving effect to the Convention which requires a sustained effort and a wide range of measures for effective supervision, strict application of penalties and the settlement of existing wage debts. The Committee therefore requests the Government to continue to supply information on the situation of wage payment and any concrete and specific measures taken to ensure the regular payment of wages in accordance with *Articles 12(1) and 15(c) of the Convention.*

The Committee is also addressing a direct request on certain other points.

Niger (ratification: 1961)

The Committee notes the Government's report. It also notes with interest the adoption of Order No. 96-039 of 29 June 1996 establishing the Labour Code.

At the same time, the Committee notes with regret that the Government has reported no progress on the observation it has been making for more than 30 years concerning section 206 of Decree No. 67-126/MFP/T of 7 September 1967, which exempts all agricultural, industrial and commercial undertakings from the obligation of paying at regular intervals not exceeding 15 days the wages of workers employed on a daily or weekly basis, and therefore is incompatible with the requirements of

Article 12(1) of the Convention and needs to be amended. The only progress reported is the indication that the provision in question will be repealed in the context of the elaboration of new regulations following the adoption of the new Labour Code. Recalling that several times in the past the Government had announced that it was planning to repeal this section within the framework of a general revision of the legislation in force, the Committee can only hope that the Government will make every effort to take the necessary action without further delay.

Moreover, the Committee notes the Government's reference to section 158 of the new Labour Code which stipulates that employers may not limit in any manner the freedom of workers to dispose of their wages as they choose. The Government indicates that this new provision aims at better implementing the requirements of the Convention while it renders null and void section 206 of the Decree of 7 September 1967 which, in any event, is no longer applied in practice. In this respect, the Committee feels obliged to observe that, even though section 158 of the new Labour Code seems in principle to give effect to the provision of *Article 6* of the Convention concerning the free disposal of wages, it has little bearing with *Article 12(1)* of the Convention, and thus with section 206 of the abovementioned Decree, which seeks to protect workers against irregular payments and wage arrears by requiring the payment of wages at regular intervals. The Committee asks the Government to include in its next report any information on legislative measures taken or contemplated to ensure that workers employed in agricultural, industrial and commercial undertakings receive their wages at regular intervals in conformity with the relevant provisions of the Convention.

The Committee is addressing a request directly to the Government on certain other points.

[The Government is asked to report in detail in 2002.]

Russian Federation (ratification: 1961)

The Committee notes the information supplied by the Government in its reports and the attached documents. The Committee notes, in particular, that the Government has still to respond specifically to several observations made by workers' organizations and noted in the Committee's previous observations.

The present situation with respect to wage debts and delayed payment

According to the latest figures communicated by the Government, the total wage arrears as at 1 January 2000 amounted to 43,741 million roubles, which represents a decrease of 33 per cent compared to the same date in the previous year. As at 1 April 2000, the total amount of wage arrears stood at 39,879 million roubles, and thus dropped by 3,686 million roubles, or 8.5 per cent, since 1 March 2000. During the month of April 2000 wage arrears were reduced by another 3 per cent and amounted to 38,674 million roubles. The Government indicates that the situation improved in 85 constituent Territories. In the social sector organizations, in particular, the wage arrears due to insufficient funding from the federal budget were reduced in 31 regions while those due to insufficient funding from the regional budgets in 80 regions. Out of the total volume of the arrears caused by insufficient funding from the federal budget into the sector of "science and scientific service" over 80 per cent amounts to the share of establishments at Moscow, Moskovkaya Oblast, St. Petersburg, Sverdlovsk Oblast, Voronezh Oblast, Penza Oblast and Krasnoyarsk Krai. Moreover, the Committee notes that according to the information supplied by the Government, wage arrears still persist in specific sectors, notably in industry (16,107 million), agriculture (7,742 million), construction (5,133 million), public utilities (2,795 million) and transport (2,304 million). The Committee requests the Government, in the first place, to make every effort to redress the situation with respect to state organizations funded through either federal or regional budgets. It also asks the Government to continue to closely follow the evolution of the situation as to the advancement of the settlement of outstanding wage debts and report regularly on any future developments in this regard.

Reinforcement of the state labour inspection

The Committee notes that the bodies of the Federal Labour Inspectorate, the Prosecutor's Offices, the Taxation Police, the Taxation Inspection, the financial and labour bodies continued to coordinate the work of monitoring the delays in the payment of wages and the targeted use of budgetary funds allocated to such purposes. The Committee notes that under Government Order No. 1035 of 9 September 1999, the various agencies of the Ministry of Labour and the Federal Labour Inspectorate (including the territorial bodies) were united, and that a new Department of State Supervision and Monitoring of the Implementation of Labour and Safety and Health Legislation was set up within the Ministry of Labour and Social Development.

The Government indicates that in the course of 1999, state labour inspectors inspected over 49,000 enterprises throughout the country. As a result, over 32,000 warrants were issued and wage arrears totalling 10.5 billion roubles were settled. Over 6,000 enterprise managers and other officials were fined by the state labour inspection for the total sum of 3.7 million roubles while disciplinary procedures were initiated against 514 managers and other officials. From 1 January to 15 April 2000, the labour inspection services carried out over 10,000 inspections resulting in some 6,600 warrants and more than 1 billion roubles worth of wage arrears paid out. Fines were imposed against 1,888 managers and other officials for the total sum of 1.08 million roubles.

The Committee notes with concern, however, the Government's statement that while the measures taken by the labour inspection services helped to restore the protection in practice of workers' labour rights, mass violations of those rights continue to be one of the main sources of the ongoing social and economic stress of the country. The Government further affirms that in most regions there are still delays in the payment of wages and that inappropriate use of budget resources has become widespread. In many cases, plant managers facing large sums of arrears of wages and social benefits choose to use money to provide loans or to pay fuel and oil bills, services or mission expenses.

In particular, the Committee notes the detailed account contained in the Government's report on individual cases detected by the state labour inspection of misuse of funds allocated to pay workers' wages. In one of the most striking cases, for instance, inspection revealed that while the unpaid wages of some 3,000 employees of an enterprise amounted to 9.1 million roubles, including arrears of 138 dismissed employees for the sum of 620,000 roubles, the management of the enterprise used the wage funds for other purposes such as the repair of the apartment of the security chief.

the purchase of furniture, the refurbishment of administrative buildings, the construction of a country-house and the financing of a football team.

In addition, the Committee notes the information provided by the Government on inspection results regarding the coal industry and educational establishments. With respect to selective inspections carried out in all coalmining regions of the country regarding the observance of wage protection legislation, the Government indicates that, on the whole, no cases of untargeted use or spending were observed but that in some enterprises the wage arrears increased. The Committee notes, however, that on at least one occasion, the administration of a coalmining company sought to reduce the amount of wage arrears by issuing promissory notes for the sum of 750,000 roubles. The Committee wishes to stress that such practices openly contravene the provision of *Article 3(1) of the Convention* which prohibits the payment of wages in the form of coupons, vouchers or in any other form alleged to represent legal tender. The Committee hopes that the Government will make every effort to reinforce labour inspections in this field and will take the necessary measures, as appropriate, to put an end to such practices (see also under "Other provisions of the Convention" below).

Regarding educational establishments, the Government states that numerous inspections showed that, in general, financial resources allocated to wage payment were used according to their purpose. The wage arrears of the educational employees were reduced by 47 per cent in 1999 and additionally by 30.6 per cent from January to April 2000. As at 1 May 2000, the outstanding wage debts to educational employees amounted to 628 million roubles.

Legislative developments and court decisions

The Committee notes the Government's reference to recent legislative changes, including the adoption of Act No. 48-FZ of 15 March 1999 supplementing the Penal Code with new section 145-1, the adoption of Government Order No. 1035 of 9 September 1999 respecting state supervision and monitoring of compliance with national labour and safety and health legislation, and the continued examination of the federal Bill to amend and supplement the Labour Code and of the federal Bill to supplement section 855 of the Civil Code on settling wage claims as privileged debts. It also notes that the Government at its session of 29 June 1999 adopted a wage arrears payment schedule for the different regions, and decided to monitor its implementation.

With relation to judicial settlement of wage claims, the Government indicates that according to available statistics the number of civil court cases referring to the repayment of wage debts is growing. In 1996, 20.7 per cent of all civil court cases heard in Russian courts concerned the payment of wage arrears. The corresponding figure for 1997 was 31.9 per cent, while in 1998 it stood at 27.5 per cent. In terms of the actual number of wage claims examined by the courts, in 1999 some 765,520 court decisions were delivered concerning suits on labour remuneration.

The Committee notes this information but insists on the need for strict application of effective sanctions to punish and prevent infringements of the labour legislation on wage protection. In this connection, the Committee is surprised to note that since the adoption of Act No. 48-FZ of 15 March 1999 by which a new section 145-1 was inserted into the Penal Code concerning liability for failure to pay wages, there have been no court decisions under this new provision. Recalling that as the Government mentions in its report, inspection continues to reveal widespread abuses and cases of embezzlement and corruption with respect to wage funds, the Committee urges the Government to sustain its intensified efforts to ensure that sanctions and redress for injury are properly enforced.

While noting all the different measures and positive developments described in the Government's reports, the Committee would still like to note that the problem of wage arrears continues to defy immediate solution. The Committee cannot but emphasize once again the need for continued concerted action and strong commitment in addressing the three main parameters of the problem, namely effective assessment of the situation, application of dissuasive sanctions, and appropriate compensation to workers for the loss suffered. The Committee therefore urges the Government to take all necessary measures to ensure the rapid settlement of outstanding wage debts and to provide up-to-date information on inspection results, the number and nature of infringements observed, the administrative and penal sanctions imposed, as well as any relevant court decisions and the total sums of wage arrears effectively paid out through judicial means.

Other provisions of the Convention

The Committee notes the information supplied by the Government on existing legislation giving effect to the provisions of the Convention as well as on the draft Labour Code which was approved by the State Duma on 27 October 1999. In particular, the Committee notes that with regard to *Articles 3 and 4* of the Convention, the Government and legislative bodies are considering the possibility of including new provisions in the draft Labour Code to bring the national legislation into closer conformity with the requirements of the Convention, for instance, by expressly prohibiting wage payment in the form of promissory notes, vouchers or coupons, also prohibiting the payment of wages in the form of alcoholic beverages, narcotic, toxic or harmful substances, weapons or other such articles, and laying down specific conditions to ensure that allowances in kind are beneficial to the worker and his family and fairly valued. The Committee hopes that favourable consideration will be given to the above proposals and that sections 128 (basic state guarantees in labour remuneration) and 129 (forms of labour payment) of the draft new Labour Code will be revised accordingly.

Moreover, the Committee notes that the Government also plans to introduce a new section to the Labour Code regulating the operation of works stores in accordance with *Article 7* of the Convention even though there still exist a very small number of undertakings with stores and services of this kind and there would appear to be no individual or collective complaints concerning the use of such stores. With respect to the preferential treatment of workers' wage claims in the event of bankruptcy or judicial liquidation of an enterprise *(Article 11)*, the Committee notes that under section 855 of the Civil Code wage claims are granted a second-rank privilege without any restriction as to the periods or amounts involved, and that it is intended to reaffirm such priority in the draft new Labour Code under consideration. It also notes the Bill to supplement section 855 of the Civil Code, which was approved by the State Duma on 16 June 1999, and which provides that when funds are paid into an account for the purpose of paying wages to persons employed under an employment contact, any payment from the account shall be effected irrespective of the priority order established by law. Finally, concerning the payment of wages at regular intervals *(Article 12(1))*, the Committee notes the new section 234 of the draft Labour Code which provides that in the event of failure to comply with established terms for the payment of wages, the employer shall be obliged to pay them with interest charged in the amount of no less than 1/300 of the existing rate of the Central Bank for every day of the delay, starting from the day following the end of the normal statutory period allowed for the payment of wages in question until the day payment is actually made. The Committee requests the Government to continue to provide information on the process of finalizing the text of the new Labour Code and transmit a copy of the new legislation once it is adopted.

[The Government is asked to report in detail in 2002.]

Syrian Arab Republic (ratification: 1957)

Articles 8(1) and 11(1) of the Convention. Further to its previous observation, the Committee notes with regret that the Government repeats the information supplied previously and again indicates that the competent authorities are reviewing the draft Legislative Decree to amend section 88(a) of the Labour Code on which the Committee has been commenting for several years. The Government states that following the comments made by the International Labour Office in August 1998 on an earlier version of the proposed amendment, a new text is being prepared and will be forwarded in due course. The Committee again expresses hope that the draft Legislative Decree will be promulgated without further delay in so far as it brings the provisions of the legislation into line with the requirements of the Convention. It urges the Government to proceed rapidly with the necessary amendments in order to eliminate the discrepancies to which the Committee has been drawing attention for some time in the past. The Committee recalls that the technical assistance of the International Labour Office is available to the Government, and requests the Government to keep it informed in its next report of any real progress achieved in this respect.

[The Government is asked to report in detail in 2002.]

Turkey (ratification: 1961)

The Committee notes the Government's report as well as the comments made by the Turkish Confederation of Employers' Associations (TISK) and the Confederation of Progressive Trade Unions of Turkey (DISK). The Committee will analyse in detail at its next session the comments of the aforementioned employers' and workers' organizations together with the response of the Government.

In its comments dated 5 June 2000, which were attached to the Government's previous report, the Confederation of Turkish Employers' Associations (TISK) expressed the view that reforms should be undertaken to reduce the amounts of compulsory contributions deducted from wages. According to TISK, the sums currently deducted from workers' wages amount to over 50 per cent due to considerable social security contributions and increasing taxation. Moreover, TISK is of the opinion that calculating the social security contributions on the basis of the worker's basic earnings, and thus requiring employers to pay contributions for wages that are not actually paid to workers, is not compatible with the objective of the Convention which is to protect wages. In its reply, the Government states that new legislation on taxation reform was enacted on 22 July 1998. The Committee asks the Government to provide in its next report full particulars on the new legislation and its repercussions on the overall amount of authorized wage deductions.

The Committee recalls the comments of the Confederation of Turkish Trade Unions (TÜRK-IŞ), received in October 2000, in which it was pointed out that wage earners in the agricultural sector and small commercial enterprises are not covered by protective legislation. The TÜRK-IŞ alleges that employers frequently defer the payment of workers' wages and other fringe benefits due to financial problems while in local governments it is widespread practice to delay the payment of wages, overtime pay, bonuses and other benefits for months. The TÜRK-IŞ further considers that the absence of effective sanctions in the case of non-payment or delayed payment of wages may only encourage such practices. On this last point, the Committee also notes the observation of TISK which expressed the view that the Ministry should supply information on the functioning of the inspection machinery, the nature and number of infringements observed and the sanctions imposed. In its response, the Government indicates that a draft bill extending the application of the Labour Act, including the provisions on wage protection, to the agricultural sector has been submitted to the Parliament. The Committee requests the Government to provide information on any further developments in this respect and to transmit a copy of the new legislation once it is adopted. The Committee also notes the Government's reference to the draft bill concerning job security which was submitted to the Parliament on 19 September 2000, and to new legislation on bankruptcy currently under preparation, both of which are expected to enhance protection of workers' wages. The Committee asks the Government to indicate in its next report any progress made with respect to the adoption of the above draft laws.

With regard to sanctions for violations of sections 26 and 99 of the Labour Act on the regular payment of wages, the Committee notes the information supplied by the Government according to which, in the course of 2000, 66 enterprises were fined by labour inspection services for non-payment or delayed payment of wages, and the total amount of fines charged reached TL113.7 million for public undertakings and TL2.8 billion for private undertakings. In this connection, the Committee recalls that the Government referred in its previous report to the possibility of increasing the monetary penalties imposed on employers for non-compliance with the legislation on wage protection. The Committee asks the Government to supply information on any further developments in this regard.

The Committee hopes that the Government will respond specifically to the observations made by the employers' and workers' organizations with respect to the application of the Convention in practice. It again requests the Government to continue to supply, in accordance with *Article 16 of the Convention* and *Part V of the report form*, all available information on the practical fulfilment of the requirements of the Convention, with particular reference to the agricultural sector, including information on inspection results, infringements observed and sanctions imposed as well as any statistics on the amounts of wages due, the length of delay in payment and the number of workers affected.

[The Government is asked to report in detail in 2002.]

Ukraine (ratification: 1961)

The Committee notes the Government's reports and the information supplied by the Government to the Committee on the Application of Standards at the Conference in June 2001. It also notes the comments communicated by the Free Trade Union of the Voltex Company concerning the non-payment or partial payment of wages due to company workers. Those comments were transmitted to the Government in August 2001 but no reply has so far been received.

According to the allegations of the Free Trade Union of the Voltex Company, since 1994-95 the non-payment or delayed payment of wages has been standard practice at the industrial complex of silk of Lutsk Voltex. The wage arrears have come to affect about 2,000 workers and amount to 2 million grivnas. It is also alleged that wages are sometimes paid in kind, not only partially, and well under the subsistence level. The Committee asks the Government to provide detailed information on the above observations and indicate the measures it intends to take for the rapid settlement of outstanding wage debts in the Voltex Company.

The evolution of the situation with regard to wage arrears

The Committee notes that the Government has been reporting on some positive developments with regard to the settlement of wage arrears, and affirms that the situation has improved in general in all branches, in the public and private sectors of the economy, and in all areas. The Committee recalls, in particular, that in addressing the Conference Committee on the Application of Standards in June 2001, the Government emphasized that in 2000 and 2001, for the first time, a trend of economic recovery had emerged and that the resolution of the problem of wage arrears was closely linked to such economic recovery. According to the latest figures supplied by the Government, the wage arrears in Ukraine as of 10 September 2001 totalled 3,447.8 million grivnas, and thus dropped by 40.8 per cent with respect to the same date in the previous year and by 52 per cent compared to the maximum level registered in August 1999. The number of workers whose wages were not paid in time decreased by 3.89 million persons, or 37.4 per cent, in the course of the year. The ratio of unpaid wages to the total amount of wages, including all types of enterprises, was reduced by more than two times, i.e. 5.9 per cent against 14.3 per cent as compared to the same index of the last year. The Government indicates that the reduction in the arrears of wages has a stable downward trend. For the first six months of 2001 the total amount of unpaid wages decreased by 510.8 million grivnas.

As to the distribution of wage arrears, of the total wage debt as of 10 July 2001, 31.6 per cent was in the state sector, and 68.4 per cent in the non-state sector. The wage arrears in the state sector totalled 1,395.8 million grivnas, and thus dropped by 36.1 per cent with respect to the same date in the previous year whereas in the non-state sector the wage arrears amounted to 3,021.3 million grivnas, which is by 27.8 per cent lower than last year's total. Available information shows that in the first nine months of 2001 wage arrears were reduced in all regions and in 22 out of the 26 branches of the economy, with the highest rates of decreasing arrears being observed in health care and education where arrears dropped by 70.7 and 78.3 per cent respectively, and in the nuclear power industry and the electric power industry where wage debts dropped by 99 and 52.9 per cent respectively. The arrears of wages were cleared off in full at the hydroelectric stations.

the underground railway construction industry, gas industry, fish industry, leather, fur and footwear industry and the metalwork industry. In other sectors the situation improved at a slower pace, for instance, in the coal industry wage arrears decreased by 10.3 per cent since the beginning of the year.

However, the Government recognizes that in certain sectors the situation has considerably worsened. According to the Government's latest report, compared to the situation as of 10 August 2000, a growth of wage arrears was registered in four branches of the economy, including fishery by 29 per cent, air transport by 47.7 per cent, the insurance sector by 27 per cent and in non-industrial consumer services by 13 per cent. The Government also indicates that in the industrial sector, wage arrears increased in the oil-refining industry by 4.2 times and in the textile industry by 1.9 per cent.

The Committee requests the Government to continue to supply information on the evolution of the situation, especially in those sectors where according to the Government's report there has been little or no progress in relation to the regular payment of wages.

Monitoring of the settlement of wage arrears

According to the information supplied by the Government in May 2001, the real capacities of the local bodies of the executive authority and self-governing bodies have been used in the effort to tackle the problem of wage arrears, and special committees operate at the regional, city and district level examining on a regular basis, but not less than once a month, the progress reports concerning the process of paying off accumulated wage arrears. These committees exercise particular control over the enterprises of state and communal ownership, state budget-financed organizations and the joint stock companies with the state participation exceeding 50 per cent.

Moreover, the Government indicates that the evolution of the situation with respect to wage arrears is analysed monthly by the State Department of the Supervision over the Observance of the Labour Legislation, and that the results of these deliberations are submitted to the Board of the Ministry of Labour and Social Policy, the Cabinet of Ministers and the President. The Cabinet of Ministers examines twice a month the progress reports of the ministers, heads of the other central bodies of the executive authority while reports of the officials in charge are examined weekly at the meetings of the Governmental Commission on the matters related to timely and full payment of taxes and clearing off the wage arrears, pensions, grants and other social benefits. While noting that public authorities consider the rate of settling outstanding wage debts to be unsatisfactory, the Committee requests the Government to provide information on any action undertaken to follow up on previous measures as well as on any new initiative to the same end.

Strengthening of the supervision and inspection machinery

The Government indicates that, with a view to bringing the bodies exercising control over the observance of labour legislation into conformity with the requirements of the ILO Labour Inspection Convention, 1947 (No. 81), further measures were taken to reform the labour inspection services. Concretely, by decision of the Cabinet of Ministers No. 1351 of 30 August 2000, the State Department of the Supervision over the Observance of the Labour Legislation was established within the Ministry of Labour and

Social Policy. By decision of the Cabinet of Ministers No. 1771 of 29 November 2000, the Regulations on the State Department of the Supervision over the Observance of the Labour Legislation were approved. Under those Regulations, the main function of the new body is to exercise state control over the observance of the labour legislation and of the legislation on universal compulsory state social insurance by the enterprises, institutions and organizations of all types of ownership, as well as by natural persons making use of employed labour. The Committee also notes the Presidential Decree No. 292 of 7 May 2001 on Urgent Measures Aimed at Accelerating the Payment of Arrears of Wages and the decision of the Cabinet of Ministers No. 959 of 9 August 2001 which regulates staffing matters of the territorial bodies of the Labour Supervision Department.

The Government states that in the course of 2000, state labour inspectors checked 23,178 enterprises experiencing wage arrears. As a result, 3,333 reports on administrative offences of the managers of the enterprises were established and submitted to the courts, and 1,909 fine warrants were delivered. During the first eight months of 2001, 27,878 enterprises were controlled, 8,942 reports on administrative offences were transmitted to the courts and 3,488 fine warrants were issued for a total sum of 752.6 thousand grivnas. In the year 2000 and the first quarter of 2001, the contracts of 222 managers of enterprises were terminated for related reasons. According to the Government, the efficiency of state control over the observance of the legislation in the field of labour remuneration has been improved. While in 1999 state labour inspectors applied administrative sanctions to every fifth manager of the inspected enterprises with wage debts, in 2000 they applied such measures to every third manager, and in the first quarter of 2001 practically to every second manager. As a result of the reinforced measures taken by the labour inspection services, 4,436 cases of wage arrears were settled representing a total amount of 631.9 million grivnas. The Committee requests the Government to continue to supply statistical information concerning inspection results, with special reference to those sectors for which the Government indicates no improvement, and even worsening, of the situation.

Legislative developments

The Committee notes the Government's statement that the issue of paying off the arrears of wages is closely monitored by public authorities and this has been reflected in the national legislation. The Government also states that through the improvement of the legislation in force the legal parameters of the protection of workers' labour rights are better defined in the context of the current economic situation and the transition to market-based relations. The Committee notes that the Law of Ukraine on the Procedure of Clearing Off Liabilities of the Payers to the Budgets and State Trust Funds, which came into effect on 1 April 2001, repeals the procedure of making compulsory preferential payment to the budget and grants the managers of enterprises the right to determine the order of priority of making any payment. The new Law contains also a clause providing that own resources of a legal person used for paying off wage arrears cannot be used as the sources of paying off tax debt of a taxpayer by his own decision or by a decision of an exempting authority. The Committee also takes note of the adoption of the Law No. 2050-III on Paying Compensation to the Citizens for the Loss of Part of their Earnings due to Non-Observance of the Periods of their Payment which entered into force on 1 January 2001. By its decision No. 159 of 21 February 2001, the Cabinet of Ministers adopted the Regulations on the Procedure of Compensation to the Citizens for the Loss of Part of their Earnings due to Non-Observance of the Periods of their Payment. The compensation for work performed as from 1 January 2001 is calculated on the basis of the wages due (after deduction of taxes and other mandatory payments) multiplied by the increase of the index of consumer prices (inflation index) expressed in percentage points, divided by 100.

In addition, the Committee notes the Decree of the Supreme Rada No. 2293-III of 15 March 2000 regarding the State of Implementation of the Law on the Remuneration of Labour at the Enterprises, Institutions and Organizations of all Forms of Ownership which fixes the time limits of paying off wage arrears and determines the tasks of the various executive bodies in this field. It notes, in particular, that the Supreme Rada qualified as insufficient the work accomplished so far and called upon the Cabinet of Ministers to ensure that all wage arrears be settled before January 2002 at the latest and not allow this phenomenon to happen again in the future. Finally, the Committee notes the adoption of the Act to amend the Penal Code and the Code of Administrative Offences of 21 September 2000, with the aim of amplifying the penal and administrative liability of employers for untimely payment of wages and other social benefits. The Committee would appreciate receiving copies of any legislative or regulatory texts which may not have been transmitted to the Office in previous reports.

While noting the Government's ongoing efforts to control and eventually eliminate the problems of income insecurity and wage arrears which severely handicap the national economy in its transition process, the Committee is nevertheless obliged to express its concern about the fact that the phenomenon of wage arrears persists throughout the country and concerns all sectors of the economy. All the more so as despite the Government's commitment, increased awareness and mobilization of means, wage arrears continue unchecked in certain economic sectors. The Committee recalls that putting an end to the accumulation of wage arrears calls for sustained efforts, an open and continuous dialogue with social partners and a wide range of measures, not only at the legislative level but also in practice. As it has been pointed out on numerous occasions by the Committee but also other ILO supervisory bodies, the fact that the national legislation is in conformity with the requirements of the Convention does not suffice in itself to ensure that the Convention is satisfactorily applied, unless the legislation is effectively and strictly enforced. The Committee understands that the problem of delays in wage payment is symptomatic of a transition economy, but once again stresses that this cannot stand as a valid excuse year after year for the continued failure to honour employment contracts by paying workers regularly their dues. The Committee urges the Government to continue relentlessly its fight against the disastrous consequences of the problem of wage arrears which strains the lives of almost 5 million workers and those of their families.

The Committee notes the Government's statement to the effect that the question of eradicating the phenomenon of wage arrears is set as a priority objective of government action in 2001. It also notes that the Government hopes that the ILO would provide advice and technical assistance to resolve this problem. The Committee can only encourage the Government to avail itself to the fullest extent possible of the expert advice and technical services offered by the Office in designing and implementing appropriate solutions to the problem of wage arrears. The Committee urges the

Government to tackle the problem of liquidation of accumulated wage debts as a matter of national urgency and continue to report on any further developments in this regard.

Other provisions of the Convention

The Committee recalls its previous observation in which it requested the Government to supply detailed information on the measures adopted to effectively apply in practice the provisions of *Articles 3, 4, 11 and 15 of the Convention*. With respect to *Article 4* on payment of wages in kind, the Government indicates that under article 23(3) of the Wage Act of 24 March 1995, the partial payment in kind is exceptionally allowed under a collective agreement at prices not lower than cost prices, but it is prohibited to replace cash payment by goods listed in the Decision of the Cabinet of Ministers No. 244 of 3 April 1993 regarding the List of Goods Prohibited as a Means of Payment of Wages in Kind. The Government indicates that the payment in kind is additionally regulated in article 19(4) of the Law on Enterprises. According to the Government, this form of payment is practised more often in agriculture and partially in forestry and fishery. Neither the General Agreement between the Cabinet of Ministers and the Confederation of Employers and the trade unions associations nor the sectoral agreements provide for payment of wages in kind. This is only provided for by a sectoral agreement between the Ministry of Agrarian Policy and the central committee of the trade unions of the workers of the agricultural and industrial complex. Between January and April 2001, the amount of wages paid in kind was reduced, the volume of wages paid in kind constituting 6 per cent of the total amount of wages.

Regarding *Article 11* of the Convention, article 21(2) of Act No. 2343 of 14 May 1992 on Bankruptcy provides that the liabilities to workers of an insolvent enterprise come second among priority claims. The second rank privilege is also recognized by article 31(2) of the Law on Restoring Solvency of a Debtor or Declaring Bankruptcy which also provides that salaried employees and wage workers, or organizations representing them, may initiate bankruptcy proceedings at a local merchant's court. As regards *Article 15(c)* of the Convention, the Committee notes, as mentioned above, that by virtue of Act No. 1979-III of 21 September 2000, section 133 of the Penal Code as well as section 41 of the Code of Administrative Offences were amended and now provide for stricter penal and administrative sanctions against employers for non-compliance with the requirements of labour legislation concerning the regular payment of wages, pensions and other social benefits.

The Committee again urges the Government to intensify its efforts in order to collect and communicate full information on the implementation of the Convention in practice, especially with reference to the payment of wages in kind, the preferential treatment of workers' wage claims in the event of bankruptcy or judicial liquidation of an enterprise, and sanctions imposed for violations of the labour legislation on wage protection.

[The Government is asked to report in detail in 2002.]

Uruguay (ratification: 1954)

The Committee takes due note of the Government's reply to its previous observation concerning the comments made by the Latin American Central of Workers (CLAT) with reference to cases of bank employees – principally those affiliated with the

Association of Bank Employees of Uruguay (AEBU) – who are allegedly treated in a discriminatory manner in contravention of the Convention. The Government indicates in its response that, as soon as those allegations were made known, the AEBU was requested to provide detailed information in order to facilitate all necessary administrative controls. In its reply, a copy of which is annexed to the Government's report, the AEBU stated that the case which had given rise to the communication of the CLAT had in the meantime been brought before the courts waiting for judicial settlement, and that to its knowledge there were no other cases of discrimination or violation of the Convention concerning the protection of wages to report.

The Committee wishes to emphasize the importance of such means as effective supervision and imposition of appropriate penalties in order to prevent and punish infringements of national laws and regulations on wage protection. It requests the Government to keep it informed of any further developments in this regard and to supply the text of the court's decision on the above case once it is delivered.

The Committee is addressing a direct request to the Government concerning other points.

Zambia (ratification: 1979)

The Committee notes the Government's report and the information provided in response to its earlier observation.

Article 12(1) of the Convention. The Committee notes that, in reply to the comments made by the Zambia Congress of Trade Unions (ZCTU) regarding the deferred payment of wages to local council employees, the Government acknowledges the poor financial situation of most councils and indicates that funds are disbursed through the Ministry of Local Government and Housing to support individual efforts.

According to the information supplied by the Government, financial resources were released from the national budget in 1998, 1999 and 2000 for the purpose of assisting local councils to meet their obligations. The Government has also stated that councils have been advised to reduce their labour forces to manageable levels in order to prevent the reoccurrence of the problem. While taking due note of this information, the Committee finds it difficult to appreciate the actual size of existing debts owed to local council employees, if any, since the Government has not supplied precise figures as to the total amount of wage arrears, or the exact number of employees and local authorities concerned. Neither has the Government specified whether its financial assistance to local councils has practically eliminated, contained, or diminished the extent of the problem.

The Committee hopes that the Government will spare no effort to rapidly put an end to this violation of the Convention and ensure the settlement of any outstanding wage arrears. The Committee considers that the problem of wage arrears calls not only for budgetary measures to redress past debts but also for a sustained application of a wide range of measures such as effective supervision and imposition of appropriate penalties in order to prevent and punish future infringements. It requests the Government to supply detailed information on all relevant measures taken to ensure the regular payment of wages including data showing their results. The Committee would also urge the Government to include information on any decision made by courts of law or other tribunals concerning the question of regular payment of wages. Finally, the Committee would appreciate receiving a copy of the Preferential Claims in Bankruptcy Act No. 9 of 1995 and the Companies Act No. 6 of 1995 to which the Government refers in its report.

[The Government is asked to report in detail in 2002.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Austria, Azerbaijan, Bahamas, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Botswana, Bulgaria, Burkina Faso, Cameroon, Central African Republic, Comoros, Czech Republic, Democratic Republic of the Congo, Djibouti, Dominica, Ecuador, France, Gabon, Guatemala, Guinea, Guyana, Honduras, Hungary, Islamic Republic of Iran, Israel, Kyrgyzstan, Lebanon, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mali, Republic of Moldova, Nicaragua, Niger, Nigeria, Norway, Panama, Paraguay, Philippines, Poland, Romania, Saint Vincent and the Grenadines, Senegal, Sierra Leone, Slovakia, Solomon Islands, Sri Lanka, Sudan, Suriname, Swaziland, Tajikistan, United Republic of Tanzania, Tunisia, Uganda, Uruguay, Venezuela, Yemen.*

Convention No. 96: Fee-Charging Employment Agencies (Revised), 1949

Swaziland (ratification: 1981)

The Committee notes that the Government's report requested for 2001 has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous direct request, which read as follows:

> *Part III of the Convention.* Further to the requests it has been formulating for many years, the Committee notes with regret that the Government has not provided the information required in *Part V of the report form*, approved by the Governing Body, on the practical application of the Convention, in particular as regards the recruiting of persons for employment on foreign contract of employment under Part IX of the 1980 Employment Act. It trusts that the Government will supply concrete information in this connection in its next report.

Syrian Arab Republic (ratification: 1957)

Following comments by the Committee for many years, the Government indicates in its report that by section 1 of Law No. 24 of 10 December 2000 the provisions of sections 18 to 22 of the Labour Code were repealed. Furthermore, section 11 of the Labour Code has also been amended in order to extend to domestic and similar workers the application of the chapter concerning the placement of unemployed persons. The Committee expresses its satisfaction with the amendments introduced in the legislation and trusts that the Government's next report will contain the information required by the report form on the application of *Part II of the Convention*, including particulars on its practical application.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Argentina, Djibouti, Mexico.*

Convention No. 97: Migration for Employment (Revised), 1949

Nigeria (ratification: 1960)

The Committee notes with regret that the Government's report has not been received for several years. It must therefore repeat its previous observation which read as follows:

> The Committee notes the massive expulsion measures taken against Chadian workers, including migrant workers of Chadian nationality.
>
> According to the information disseminated by the International Federation of Human Rights (FIDH), a large number of the Chadian nationals who were arrested and then expelled were migrant workers, in possession of valid residence permits. The FIDH considers that the massive deportation of non-nationals, particularly to a country in which there may be a risk of human rights violations, is rigorously prohibited by international human rights instruments, including the African Charter of Human and People's Rights, which was ratified by Nigeria in 1990.
>
> The Committee recalls in this respect the provisions of the Migration for Employment Recommendation (Revised), 1949 (No. 86), which supplements the Convention and states in paragraph 18 that when a migrant for employment has been regularly admitted to the territory of a Member, the said Member should, as far as possible, refrain from removing such person from its territory on account of his lack of means or the state of the employment market. Moreover, account should be taken of the length of time the migrant has been in the territory of immigration and the migrant must have been given reasonable notice so as to give him time to dispose of his property. Finally, the necessary arrangements have to have been made to ensure that he and the members of his family are treated in a humane manner.
>
> The Committee also recalls the provisions of the Model Agreement on Temporary and Permanent Migration for Employment, including Migration of Refugees and Displaced Persons, which suggests in article 25, paragraph 2, that immigration countries which are parties to such an agreement should undertake not to send refugees and displaced persons or migrants who do not wish to return to their country of origin for political reasons back to their territory of origin, unless they formally express this desire by a request to the competent authority of the territory of immigration and the representatives of the United Nations High Commissioner for Refugees.
>
> The Committee requests the Government to indicate the measures taken to ensure that the departure of the migrant workers concerned and the members of their families occurs in conditions of dignity which are in accordance with the above indications, as well as the measures taken under *Article 6, paragraph 1(a) and (b), of the Convention*, with a view to ensuring the final payment of the remuneration due to these workers who are legally within its territory, as well as the maintenance of their acquired social security rights.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Saint Lucia (ratification: 1980)

The Committee notes with regret that the Government's report has not been received for several years. It must therefore repeat its previous observation which read as follows:

> Noting that, with technical assistance from the Office, several pieces of model legislation have been completed as part of the CARICOM labour legislation harmonization project, the Committee looks forward to receiving from the Government, in its next report,

> an indication as to whether it intends taking measures to give legislative effect to the Convention, as it had indicated in its 1991 report (the most recent received by the Office). Hoping that a report will be supplied for examination by the Committee at its next session, the Committee recalls that its previous direct request had also requested information on the practical application of the Convention, as provided for in the report form adopted by the Governing Body of the ILO.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Belgium, Brazil, China* (Hong Kong Special Administrative Region), *Cyprus, Ecuador, France, Germany, Grenada, Guatemala, Israel, Italy, Jamaica, Malawi, Mauritius, Netherlands, New Zealand, Portugal, United Kingdom, Uruguay.*

Convention No. 98: Right to Organise and Collective Bargaining, 1949

Argentina (ratification: 1956)

The Committee notes the Government's report.

1. *Article 4 of the Convention.* The Committee recalls that in its previous observation it referred to Act No. 25013 of September 1998, amending Act No. 14250 on collective bargaining, in which section 14 provides that "representation of workers in collective bargaining shall be incumbent on the most representative trade union organization, which may delegate its bargaining power to a decentralized body" and that it stressed that on the basis of the principle of free and voluntary negotiation laid down in *Article 4* of the Convention, negotiations at enterprise level should depend essentially on the will of the parties at that level. In this regard, the Committee notes with satisfaction that the contested section of Act No. 25013 has been repealed by adoption of Act No. 25250 of May 2000 which provides the possibility of bargaining at all levels and grants representation of workers in negotiation of enterprise collective agreements by the union which represents them.

2. Nevertheless, the Committee observes that the new Act does not refer to the legislative provisions commented on by the Committee which restrict free collective bargaining by stipulating that collective agreements which go beyond enterprise level be submitted for approval by the Ministry of Labour (for granting official approval), the Ministry considers not only whether a collective labour agreement contains clauses violating the public order standards of Acts Nos. 14250 and 23928 but also whether it complies with the criteria of productivity, investment, and the introduction of technology and vocational training systems (section 3 of Act No. 23545, section 6 of Act No. 25546 and section 3ter of Decree No. 470/93). On this matter, the Committee requests the Government to take measures to repeal or amend the provisions in question in order to bring legislation into conformity with the Convention. The Committee requests the Government to supply information in its next report on all measures taken in this respect.

3. Finally, the Committee notes that the Committee on Freedom of Association, having observed that the Executive in the province of Buenos Aires vetoed a draft law

guaranteeing the right to collective bargaining of public officials in that province, requested the Government to take measures to ensure that the right of these officials to undertake collective bargaining is respected (see 326th Report, Case No. 2117). The Committee shares the concern of the Committee on Freedom of Association and requests the Government to supply information in its next report on any measures adopted to ensure that the workers in question enjoy the right to collective bargaining.

The Committee is also addressing a request directly to the Government.

Australia (ratification: 1973)

The Committee takes note of the Government's report, and of the references to the various jurisdictions' legislation, as requested in previous comments.

Federal jurisdiction

The Committee notes that the Commonwealth's report will be forwarded to the ILO as soon as possible after the installation of the new Government, following the general election of 10 November 2001, and that the governments of Victoria and the Australian Capital Territory have not provided their comments.

The Committee requests once again the Government to provide the reports of these jurisdictions, which it will examine along with the Commonwealth's report once it is received, inasmuch as the same legislation is applicable.

State jurisdictions

Western Australia. The Committee had requested the Government to review and amend its legislation in order to ensure conformity with the Convention as regards protection against anti-union discrimination and promotion of collective bargaining. The Government indicates that the new Western Australian government, elected in February 2001 with a substantial mandate for industrial relations reform, will ensure compliance with the Convention through a series of measures, including: the repeal of the 1993 Workplace Agreements Act; a clear and effective preference for collective bargaining over a modified version of individual bargaining; the creation of a more balanced system between employers and employees, including the repeal of restrictions on unions' access to workplaces; the introduction of a good faith bargaining principle; and a strengthened role for the Western Australian Relations Commission. The Government adds information on the characteristics of the future Employer Employee Agreement (EEA), which distinguish them from the current Workplace Agreement (WPA) system.

The Committee notes this information with interest and requests the Government to transmit a copy of the Act once adopted, and to provide information on its application in practice.

The Committee is also addressing a direct request to the Government concerning the federal jurisdiction, as well as the Australian Capital Territory, New South Wales, Queensland, South Australia, Tasmania and Victoria.

Bangladesh (ratification: 1972)

The Committee notes the information provided by the Government in its report.

The Committee's previous comments referred to discrepancies between national legislation and the Convention on the following points:

- obstacles to voluntary bargaining in the private sector (sections 7(2), 22 and 22A of the Industrial Relations Ordinance, 1969 (IRO)). The Committee had pointed out that collective bargaining was not developed in small establishments because sections 7(2), 22 and 22A of the IRO appeared to inhibit the establishment of "sectoral" or "industry" unions. It had therefore requested the Government to take the necessary steps to remove the requirements: (a) in section 7(2) that, in order to be registered under the IRO, a trade union must have a membership of at least 30 per cent of the total number of workers in the establishment or group of establishments in which it was formed; and (b) in sections 22 and 22A of the IRO that only unions which were registered in accordance with section 7 may become collective bargaining agents;
- restrictions on voluntary bargaining in the public sector (section 3 of Act No. X of 1974), in particular through the practice of determining wage rates and other conditions of employment by means of government-appointed wages commissions;
- lack of legislative protection against acts of interference *(Article 2 of the Convention)*;
- denial of the rights guaranteed by *Article 1* (Protection against anti-union discrimination), *Article 2* (Protection against acts of interference), and *Article 4* (Right to bargain collectively) of the Convention for workers in export processing zones (section 11A of the Bangladesh Export Processing Zones Authority Act, 1980).

The Committee notes with interest that the Government has issued on 31 January 2001 a declaration (SRO No. 24, Law/2001) that will allow workers in EPZs the right of association and other facilities, as from 1 January 2004. The Committee requests the Government to provide the text of that declaration and to keep it informed of progress made in this respect, hopefully before 1 January 2004.

As regards the other issues, the Committee is bound to note that the Government, once again, repeats more or less the same arguments as raised in previous reports, to deny the existence of the above violations or, alternatively to justify them. The Committee once again brings the Government's attention to the fact that these discrepancies between national legislation and the Convention constitute serious violations of the Convention, a point which the Committee has commented on in detail for several years.

The Committee further notes that the draft Labour Code, submitted by the National Labour Commission and apparently raised several objections from various quarters (workers, employers and other legal bodies), was reviewed by a committee of legal experts which, in turn, has submitted its views and report, and that the Government is taking active steps to have it passed by Parliament. The Committee, once again, strongly encourages the Government to ensure that the above comments are duly taken into consideration, so that they are reflected in the text as adopted by Parliament and, to that end, invites it once again to consider requesting ILO technical assistance. The Committee requests the Government to inform it in its next report of any progress made in this respect.

Belize (ratification: 1983)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee recalls with regret that it has been drawing the Government's attention since 1989 to the need to ensure that workers benefit from adequate protection against anti-union discrimination. It recalls that the fines which may be imposed upon an employer found guilty of anti-union discrimination against workers may not exceed $250 (Labour Ordinance, Chapter 234, section 199). Given that the monetary penalties have not been revised in the light of inflation and do not exert a sufficiently dissuasive effect against acts of anti-union discrimination, the Committee requests that the Government take measures to amend the legislation to ensure that it is in full conformity with the Convention. The Committee hopes the Government will make every effort possible to take the necessary measures in the very near future.
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> *Articles 3 and 4 of the Convention.* The Committee notes that a draft Act *(Trade Union Recognition Act)* aimed at ensuring adequate recognition of unions has been submitted by the Government to the competent authority. The Committee asks the Government to keep it informed of the status of this draft.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Bolivia (ratification: 1973)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Articles 1, 2 and 3 of the Convention.* The Committee recalls that for many years it has referred to the need for the legislation to contain provisions protecting those workers who are not trade union leaders against anti-union discrimination, and protecting against any act of interference by employers' organizations in workers' organizations and vice versa. In this connection, the Committee takes due note of the Government's indication that: (i) provision has been made through a Supreme Decree No. 25421 of 11 June 1999 for the prohibition of any anti-union discrimination whatsoever against workers, and also against any act of discrimination or interference by employers' organizations in workers' organizations and vice versa; and (ii) infringements will be penalized in conformity with the General Labour Law and its pertinent provisions.
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> In this connection, the Committee requests the Government to indicate clearly with its next report what penalties provided for in the law will be applicable, as well as to communicate information on the way in which the system functions in practice.
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> *Articles 4 and 6.* The Committee observes that the legislation denies the right to organize to public servants. The Committee stresses that public servants not employed in the administration of the State must have the right to bargain collectively through their organizations. The Committee asks the Government to take steps to amend the legislation accordingly.

The Committee hopes that the Government will make every effort to take the ecessary action in the very near future.

Brazil (ratification: 1952)

The Committee notes the Government's report.

Article 4 of the Convention. 1. The Committee notes that for several years it has been referring to the need to repeal section 623 of the Consolidation of Labour Laws (CLT), under the terms of which provisions of an agreement or pact shall be declared void where they are contrary to the standards established by the Government economic policy or the wage policy in force. The Committee notes, with reference to sections 611 to 625 of the CLT, the Government's indication that in recent years the Executive Authority has sent to the National Congress various draft texts to amend the labour legislation, the central aspect of which is the promotion of negotiation as a means of resolving conflicts between employers and workers. In this respect, the Committee requests the Government to indicate whether any of the draft texts in question envisages repealing section 623 of the CLT and, if not, to take measures to repeal it. The Committee requests the Government to provide information in its next report on any measure taken in practice in this respect.

2. The Committee also notes the Government's indication that, with a view to overcoming obstacles to freedom of association, the Executive Authority submitted to the National Congress a proposed constitutional amendment (623/98) which, among other matters, envisages the revision of the normative power of the judicial authority and entrusting it with carrying out voluntary arbitration, at the request of both parties, in the event of collective disputes of an economic nature. Indeed, the Committee notes that, in the context of Title VI of the Consolidation of Labour Laws respecting collective labour agreements, it is envisaged in section 616 that, in the event of refusal to engage in collective bargaining, the trade union or the enterprises may have recourse to a *"dissidio coletivo"* (a procedure before the judicial labour authority) and, where an agreement, pact or award is in force, the *"dissidio coletivo"* must be lodged 60 days before the expiry date so that the new instrument can enter into force upon such date. The Committee also recalls that, during the technical assistance mission carried out by the Office in 1999, a clear decrease had been noted in recourse to the judicial authorities in the above context. In these conditions, although noting that over three years have elapsed since the submission of Bill No. 623/98, the Committee requests the Government to inform it in its next report of the situation with regard to this text. Furthermore, in the event that the above Bill has not been pursued, the Committee requests the Government to take measures to amend section 616 of the CLT in order to limit recourse to arbitration by the judicial authority to those cases in which it is requested by both parties, in essential services in the strict sense of the term and when, after prolonged negotiation, it is clear that the deadlock in the negotiations cannot be overcome without an initiative by the authorities. The Committee requests the Government to provide statistical information on recourse to the mechanism of *"dissidio coletivo"*.

Articles 4 and 6. 3. The Committee recalls that for many years it has been referring to the need for public servants not engaged in the administration of the State to benefit from the right to collective bargaining. The Committee notes the Government's statement that: (1) public servants do not enjoy the right to collective bargaining and their terms and conditions of employment are established by law; and (2) there is the possibility that certain categories of public servants considered to be atypical (in state enterprises or joint venture companies) can have recourse to collective bargaining to modify their terms and conditions of employment, but that the utilization of such machinery nevertheless depends on an administrative reform and that the standards that are adopted are intended to regulate labour relations in specific public sectors. The

Committee recalls that in its previous observation it noted from the report of the technical assistance mission in 1999 that the recognition of this right for all categories of public servants would entail a constitutional amendment and that the Executive Secretary for Labour had indicated to the mission that discussions on collective bargaining for independent entities and public foundations could take place within the framework of the new administrative reform model and process, since these entities are not included within basic state functions. In these conditions, the Committee requests the Government to provide information in its next report on any measures that are adopted so that the public servants concerned benefit from this right in practice.

Cape Verde (ratification: 1979)

The Committee notes the Government's report.

In its previous observation the Committee had asked the Government to introduce measures to give effect to the provisions of *Article 4 of the Convention*, and had expressed the hope that the Government would be in a position to include copies of new collective agreements in its next report.

The Committee notes that, according to the Government, there has been little progress as regards collective bargaining but that a number of measures, including the organization of seminars, have been taken to promote collective bargaining. To date, only one collective agreement covering several sectors has been signed.

The Committee requests the Government to pursue its endeavours to promote collective bargaining and expresses the hope that in the near future it will be able to note significant progress.

Chile (ratification: 1999)

The Committee notes the first report supplied by the Government.

The Committee notes with satisfaction that, between the ratification of the Convention and the provision of the first report, the National Congress amended the Labour Code to give better effect to the Convention. In practical terms, through the amendments to the Labour Code, protection has been strengthened against acts of anti-union discrimination and interference and collective bargaining is permitted for temporary and casual workers. The Committee notes that this process was preceded by the technical assistance of the Office at the request of the Government.

The Committee is also raising a series of matters concerning the application of the Convention in a direct request.

Colombia (ratification: 1976)

The Committee notes the Government's report.

The Committee recalls that in its 1999 observation, it had noted the comments on the application of the Convention transmitted by the General Confederation of Democratic Workers (CGTD), the Trade Union of Telecommunication Workers of Santa Fe de Bogota (SINTRATELEFONOS), the Trade Union of Textile Industry Workers (SINTRATEXTIL) and the World Federation of Trade Unions (WFTU) and that in its observation in 2000 it had referred to the comments made by the Maritime Transport

Workers Union (UNIMAR). The Committee notes that in its report the Government confines itself to indicating that these relate to matters covered by cases currently being examined by the Committee on Freedom of Association of the ILO's Governing Body. However, the Committee recalls that there are other issues pending concerning the application of the Convention which need to be dealt with. The Committee notes that the above comments relate to non-compliance with collective agreements by the municipality of Ibagué and the Coltejer and the GM Colmotores enterprises, and the dismissal of trade union leaders in the municipality of Montería and from the merchant navy. In this respect, the Committee wishes to emphasize that both employers and trade unions must negotiate in good faith, making an effort to reach an agreement, and that once such agreements have been concluded they must be binding on both parties. Furthermore, the Committee observes that the dismissal of trade union leaders on the grounds of their function or legitimate trade union activities constitutes a serious violation of *Article 1 of the Convention*.

The Committee also recalls that in its observation in 2000 it had noted the comments on the application of the Convention transmitted by the Single Confederation of Workers (CUT), the Confederation of Workers of Colombia (CTC) and the General Confederation of Democratic Workers (CGTD) concerning enterprise, government and judicial practices which gave preference to collective accords with non-unionized workers and disregarded existing collective agreements and trade unions. The Committee notes the Government's indication that the rulings of the Constitutional Court and the Supreme Court of Justice comply with international undertakings, in accordance with the principles of the independence and supremacy of the law. The Committee emphasizes that the principles of collective bargaining have to be respected taking into account the provisions of *Article 4* of the Convention concerning the full development and utilization of machinery for voluntary negotiation with workers' organizations with a view to the regulation of terms and conditions of employment by means of collective agreements, and that direct negotiations with workers must not prejudice or weaken the position of trade unions, nor weaken the impact of collective agreements that have been concluded. The Committee requests the Government to ensure that these principles are respected and to inform it of any measures adopted in this respect.

Finally, the Committee recalls that for many years it has been referring to the need to recognize the right to collective bargaining of public employees. The Committee emphasizes that in accordance with the provisions of Convention No. 98, public servants not engaged in the administration of the State already should benefit from the right to collective bargaining. In this respect, the Committee takes note of the ratification of Conventions Nos. 151 and 154, which recognize the right to bargain collectively of public servants with limited exceptions. The Committee requests the Government to take measures to guarantee the right of public employees and officials to collective bargaining. The Committee requests the Government to provide information in its next report on any measure taken in this respect.

Comoros (ratification: 1978)

The Committee notes that the Government's report does not reply to its previous comments. It must therefore repeat its earlier direct request, which addressed the following points:

> The Committee noted the information supplied by the Government in its report, the comments made by the Union of Independent Organizations of Comorian Workers (USATC) and the Government's reply thereto.
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> With reference to its previous comments on the embryonic state of collective bargaining in both the private and public sectors in the country, the Committee noted the information supplied by the Government to the effect that it understood and accepted the importance of trade unionism in the various occupational sectors. The Committee also noted the Government's observation that the Comorian trade union movement was beginning to form and that several meetings had taken place between the Government and the unions which led to the conclusion of memoranda of understanding.
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> The Committee noted, however, the comments by the USATC to the effect that in Comoros there existed one collective agreement concluded in 1961. There were also a few agreements between sector unions and their respective employers arising out of specific disputes; however, these agreements were generally not effective. The Government replied that the initiative for collective bargaining must come first and foremost from the social partners in the enterprise. It nonetheless hoped that collective bargaining, tripartism and social dialogue would be strengthened once the Higher Council for Labour and Employment (CSTE) was operating effectively. The Government explained in this connection that, despite the adoption of Decree No. 94-047/PM of 3 August 1994 on the organization and operation of the CSTE, the latter was still not operational because the Government had been unable to meet the material and technical costs of organizing its meetings. Noting the Government's statement that it would appreciate assistance from the ILO, the Committee pointed out to the Government that the Office's technical assistance was at the disposal of national authorities and recommended that the Government made the necessary arrangements with the Office.

The Committee notes from the Government's report that, thanks to technical assistance from the Office, the CSTE conducted a revision in September 2001. The Committee can but reiterate the importance it attaches to *Article 4 of the Convention* which stipulates that, when necessary, measures must be taken to promote the voluntary negotiation of collective agreements between employers' and workers' organizations. It once again asks the Government to keep it informed of the signing of all memoranda of understanding or collective agreements and expresses the hope that the next report of the Government will show that significant progress has been made.

Costa Rica (ratification: 1960)

The Committee notes the Government's report, the discussions in the Conference Committee in June 2001 and the report of the technical assistance mission which visited Costa Rica from 3 to 7 September 2001. The Committee also notes the comments on the application of the Convention submitted by the Union of Employees of the Ministry of Finance (SINDHAC) and the Transport Workers' Union of Costa Rica (SICOTRA) on 28 June 2000 and by the International Confederation of Free Trade Unions (ICFTU) and the Rerum Novarum Confederation of Workers on 20 and 25 September 2000 and 20 February and 7 March 2001, as well as the Government's observations in this respect.

The Committee notes the recent comments made by the central trade union organizations of Costa Rica, which had already been provided to the technical assistance mission.

1. Slowness and ineffectiveness of recourse procedures in the event of anti-union acts

The Committee notes the slowness of the judicial procedures in the event of cases of anti-union persecution and of those applicable in cases of breaches of the labour legislation giving rise to the imposition of penalties which, according to the report of the mission, may last for one or two years, as well as, in contrast, the Government's statement that the prior administrative procedure takes around the period of two months established by the Constitutional Chamber. The Committee notes a substantial decrease in acts of anti-union discrimination between 1996 and 1999, but observes that, according to the central trade union organizations, the fear of reprisals persists among workers who establish and join a trade union. The Committee notes that "the Government, workers and employers agree upon the need for proceedings to be rapid and, within the framework of a tripartite consensus, the Executive Authority has submitted to the Legislative Assembly a bill to amend the various provisions of the Labour Code and which addresses very fully acts of anti-union discrimination and interference (dismissals, transfers, blacklists, etc.) and provides for very rapid procedures prior to dismissal which have to be discharged by the employer and summary proceedings before the judicial authorities with compulsory time limits to ascertain the reasons for the dismissal, with severe penalties for refusal to reinstate the worker where justified grounds are not found to exist. It is explicitly provided that, in the situations described above, dismissal without due cause as provided in the Labour Code shall be void (that is, subject to compensation), as already established in the case law of the Constitutional Chamber." "This Bill is supported by the central trade union organizations, which have concluded an agreement with the parties of the main components of Parliament, including an undertaking by the heads of the components to change the agenda so that after the first discussion of the Act for the protection of workers, the Bill respecting trade union freedoms will be presented."

Taking into account the importance of the problems raised above, the Committee expresses the firm hope that the above Bill, which it notes with interest, will be adopted in the very near future and it requests the Government to provide information in this respect.

The Committee notes the allegations made by SINDHAC and SICOTRA concerning acts of anti-union discrimination and requests them to provide the texts of any administrative or judicial decisions in this respect.

2. Denial of the right to collective bargaining in the public sector, including employees who are not engaged in the administration of the State, as a result of various court rulings

In its previous observation, the Committee had noted that the Government: (1) had requested the Office's technical assistance with a view to the adoption of specific provisions relating to the right of public servants to collective bargaining; and (2) had expressed its readiness to prepare draft legislation. In these conditions, the Committee recalls that, under *Article 4 of the Convention*, public servants who are not engaged in the administration of the State should have the right to engage in collective bargaining with a view to the regulation of their terms and conditions of employment. The Committee hopes that the Government, after receiving the technical assistance requested in the near future, will adopt measures to bring national law and practice into full conformity with the provisions of the Convention.

The Committee notes that, according to the report of the technical assistance mission, there are good grounds for believing, including the opinion expressed by the President of the Constitutional Chamber, that the Chamber's rulings Nos. 2000-04453 of 24 May 2000 and 2000-7730 of 30 August 2000, as well as the Chamber's vote of clarification (No. 2000-09690) of 1 November 2000, totally exclude collective bargaining for all public sector employees with a statutory employment status, including those working in public or commercial enterprises or in independent public institutions. The Committee notes the action taken by the Government, in the context of this case law, to defend the right of collective bargaining in the public sector, and more particularly the recent Decree No. 29576-MTSS of 31 May 2001 (regulations for the negotiation of collective agreements in the public sector), which only excludes from this right public servants of the highest level in the public sector, and that the above regulations, in accordance with the recommendations of the technical assistance provided by the ILO, includes certain substantial improvements with regard to the 1993 regulations (for example, abolition of the approval commission, broadening the scope of application of the Convention, limitations on collective bargaining only for the public sector or its representatives) and which were the subject of certain comments by the technical assistance mission with a view to developing future legislation, in which emphasis was placed on certain problems and on the need to clarify certain points.

Nevertheless, the Committee notes that the technical assistance mission, commenting on the above rulings of the Constitutional Chamber, "emphasizes the confusion, uncertainty and even legal insecurity existing with regard to the scope of the right to collective bargaining in the public sector in terms of the employees and public servants covered (according to the rulings, the administration of the public institutions or enterprises is responsible for determining which employees have statutory status, and their decision may in turn be appealed to the judicial authorities) and in parallel concerning the validity and effect of certain collective agreements which are in force, as well as the constitutionality of the large number (according to the Government) of de facto negotiations existing, and even of the recent regulations respecting collective bargaining in the public sector of 31 May 2001. The mission also emphasizes that the ruling of 24 May 2000 indicates that it has retroactive effect."

The Committee expresses its deep concern over this situation, which constitutes a serious violation of Convention No. 98 in terms of the right to collective bargaining in the public sector, since the Convention only allows the exclusion from its application of public servants engaged in the administration of the State *(Article 6)*. However, the Committee notes the existence of a Bill which is before the Legislative Assembly and is supported by the social partners and the Government, the President of the Legislative Assembly and the main opposition party, providing for the ratification of ILO Conventions Nos. 151 and 154 (which address, among other matters, the right of collective bargaining in the public administration) and which would make it possible to find solutions to the problems that exist and strengthen the application of Convention

No. 98. It expresses the firm hope that it will be adopted in the very near future and requests the Government to provide information in this respect.

3. Subjecting collective bargaining in the public sector to criteria of proportionality and rationality

The Committee notes that, according to the information contained in the mission's report, the decision of the Constitutional Chamber of 30 August 2000 concerning the RECOPE oil refinery (a public enterprise) declared unconstitutional certain clauses of a collective agreement (relating to the vacation bonus, paid and unpaid leave for personal reasons, the attendance bonus for employees who comply with the duty to attend work, etc.) on grounds, in particular, of the criteria of legality, proportionality, rationality and equality, and referring to unreasonable and disproportionate privileges which in certain cases are secured with public funds. The Committee emphasizes that only on grounds of vices of form or non-compliance with minimum legal standards can clauses of agreements be struck out and emphasizes, in the same way as the mission, that the ruling in question may have very prejudicial effects on the confidence placed in collective bargaining as a means of resolving conflicts and may give rise to a loss of autonomy of the parties and the devaluation of collective bargaining itself.

The Committee hopes that in future the authorities will take into account the above principle and will refrain from striking out clauses of collective agreements on the basis of the criteria of unique proportionality and rationality.

4. Collective bargaining in the private sector

The Committee notes with concern that the report of the mission draws attention to the enormous imbalance in the private sector between the number of collective agreements concluded by trade union organizations (12, with very low coverage – 7,200 workers) and the direct pacts concluded by non-unionized workers (130). The Committee notes that the trade union confederations link this imbalance with the permanent workers' committees which, in their opinion, mostly act as agents of employers or of solidarist associations, an allegation that is denied by employers. In their communications, the trade unions SINDHAC and SICOTRA allege the conclusion of illegal direct pacts in the passenger and cargo transport sector. The Committee emphasizes that the ILO's instruments envisage direct negotiation between employers and workers' representatives only in the absence of trade union organizations. The Committee points out that Convention No. 98 advocates *encouraging and promoting negotiation with workers' organizations* by means of collective agreements and requests the Government to take the necessary measures to promote collective bargaining within the meaning of the Convention and to hold an investigation by independent persons concerning the reasons for the increase in direct pacts with non-unionized workers.

The Committee supports the proposal by the mission that the unresolved problems should be discussed in a tripartite framework with the technical assistance of the ILO with a view to finding satisfactory solutions to them.

Côte d'Ivoire (ratification: 1961)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

The Committee notes that the Government's report refers to Decree No. 64-453 of 20 November 1964 which establishes sanctions for violations of standards relating to trade union rights.

The Committee had noted that, in respect of protection afforded to workers in general against acts of anti-union discrimination, section 4 of the Labour Code prohibited employers from taking into consideration "membership or non-membership of a trade union or trade union activities of workers for making decisions regarding, in particular, recruitment, conduct and distribution of work, vocational training, advancement, promotion, remuneration, granting of social benefits, discipline or termination of the employment contract". The Committee understands that violations of the provisions of this section of the Labour Code are punishable by the sanctions applicable under the conditions determined by decree (section 100.4 of the Labour Code). The Committee, therefore, requests the Government to specify the applicable sanctions under Decree No. 64-453 (since it does not specify the amount of the contravention). The Committee recalls that protection against acts of anti-union discrimination against workers requires sanctions which are sufficiently effective and dissuasive.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Croatia (ratification: 1991)

The Committee notes the information provided by the Government in its report, particularly the adoption of Act No. 17/01 amending the current labour legislation. The Committee also notes the communication of 6 July 2001 formulated by Public Services International (PSI), and the Government's comments on the matters raised therein.

Article 4 of the Convention. In previous comments, the Committee had requested the Government to forward its observations on the decision handed down by the Supreme Court of 7 December 1995, which acknowledged that legislation may modify the substance of a collective agreement concluded for the whole of the public sector. The Committee had also requested the Government to provide information on the measures taken to ensure the promotion of collective bargaining in the public sector with regard to public servants not engaged in the administration of the State. The Government indicates that the right to bargain collectively is evident from the numerous collective agreements that exist in public enterprises and the public sector. The Government mentions certain collective agreements in force both in the public sector and the public service, for example, the Collective Agreement for Civil Servants and Government Employees and the Basic Collective Agreement for Senior Officials and Employees in Public Services. The Committee once again requests the Government to send its comments on the decision of the Supreme Court of 7 December 1995.

The Committee notes that regarding the comments made by the Independent Trade Union of the Croatian Electrical Power Industry and other workers' organizations concerning the decision handed down on 30 December 1997 restricting the negotiation of pay increases in state enterprises, the Government indicates that this decision was taken to serve as a recommendation for the basic framework for bargaining, and to indicate limits within which standard collective bargaining may be achieved. Furthermore the Committee notes that according to the Government, trade unions are autonomous in collective bargaining and the conclusion of collective agreements. The Committee also notes the Government's statement to the effect that the Economic and

Social Council holds consultations with social partners regarding economic and budgetary policies, including the issue of salaries, for both the public and private sectors.

Comments of the PSI. The PSI states that under the pressure of international financial institutions, the Government unilaterally cancelled collective negotiations with the trade unions of the public sector and has openly stated that these institutions have requested that the recently enacted Labour Act be modified in order to restrict significantly labour and union rights. According to the PSI, the agenda of the Government includes new proposals for laws which are detrimental to social rights. The Government indicates in this regard that these proposals concern new parameters for the calculation of salaries and that they were submitted to the trade unions concerned in the procedures for proposing and adopting the new laws. The coefficients established by the new law could be applied only upon modification of the salary base that was established by the collective agreements. The new laws provide that the salary base will be established by collective agreements. The trade unions failed to reach an agreement as to the composition of the negotiating committee and following the applicable legal procedure, a decision was taken by the Vice-President of the Economic and Social Council. The conclusion of the collective agreement for public services has not yet been concluded. Separate negotiations will take place, in particular in the public services, taking into account their specificities.

The Committee invites the PSI to comment on the Government's statements.

Czech Republic (ratification: 1993)

The Committee notes the comments on the application of the Convention submitted by the International Confederation of Free Trade Unions (ICFTU) on 5 October 2001 and requests the Government to send its observations thereon.

Democratic Republic of the Congo (ratification: 1969)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the conclusions of the Committee on Freedom of Association with regard to Cases Nos. 1818 and 1833 and Cases Nos. 1905 and 1910, made in November 1995 and June 1997, respectively, which refer to acts of interference by employers in the private sector and by the public authorities and the violation of the right to collective bargaining.
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> *Article 1 of the Convention.* The Committee notes that section 228 of the Labour Code (Legislative Order No. 67/310 of 9 August 1967) prohibits the dismissal of or discrimination against workers by reason of trade union membership or participation in trade union activities and that section 49 of the Labour Code only provides for the payment of compensation in the event that a contract of employment is terminated without due cause. The Committee requests the Government to indicate the protection granted to workers whose contracts are terminated for reasons of trade union membership or activity.
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> *Article 2.* The Committee notes that section 229 of the Labour Code obliges employers' and workers' organizations to refrain from acts of interference by each other in their establishment, functioning and administration. In this respect, the Committee again requests the Government to provide information on the protection provided against acts of interference by an *individual employer.*

Article 4. The Committee takes due note of the examination by the Committee on Freedom of Association of the above cases with regard to the refusal by the public authorities to undertake negotiations with the staff of a public service and the refusal to allow certain representative organizations to participate in a joint commission in the public service and requests the Government to specify the measures adopted to encourage and promote the development and utilization of machinery for negotiations between the public authorities and workers' organizations, including workers' organizations in public sector enterprises, to regulate the terms and conditions of employment.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Denmark (ratification: 1955)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

1. The Committee notes the information provided by the Government concerning the negotiation of terms and conditions of employment of foreign seafarers employed aboard Danish ships.

2. In its previous observation, in the context of concerns it had raised regarding section 10 of the Danish International Shipping Register Act (DIS Act) which limits the negotiating power of Danish trade union organizations to residents of Denmark, the Committee took note of the extension of an agreement between Danish shipping federations and seafarers' organizations. This agreement secures the right of Danish unions to represent foreign seafarers for the purpose of collective bargaining in order to ensure that the agreements concluded meet an acceptable international level. The Government in its most recent communication cites developments in this regard, in particular the signing of a new two-year agreement on 13 September 1999 between the social partners. The Government states that this agreement confirms the fundamental principle that Danish labour organizations have a right to be represented at negotiations between Danish shipping companies and foreign organizations to ensure that the results of such negotiations regarding working and living conditions are at an internationally acceptable level. Pursuant to the agreement, a contact committee has been established to develop and extend cooperation between the parties. The Government also refers to a further agreement between the social partners entered into on 25 February 2000 concerning the establishment of collective agreements with foreign unions and individual agreements for foreign seafarers from outside the European Union, which clarifies what is meant by "an internationally acceptable level". The Government states further that the main organizations in the industry and the Government have discussed the issue of the collective agreement provisions in section 10 of the DIS Act, and have confirmed that a common understanding of the administration of the collective agreement provisions in the Act has been achieved through the above-noted agreements. The Committee notes with interest these agreements which appear to promote the voluntary negotiation of terms and conditions of employment of foreign seafarers employed aboard Danish ships. The Committee requests the Government to indicate in its next report the status of these agreements as well as any measures taken or envisaged to bring section 10 of the DIS Act into conformity with the existing practice and into full conformity with *Article 4 of the Convention*.

3. With respect to the Committee's previous comments concerning the application of section 12 of the Conciliation Act, the Committee will address this matter when it receives the Government's full report.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Dominican Republic (ratification: 1953)

The Committee notes the Government's report.

Article 4 of the Convention. The Committee recalls that for many years it has been referring in its comments to the requirement for a trade union to represent an absolute majority of workers in an enterprise or of workers employed in a particular branch of activity to be able to bargain collectively (sections 109 and 110 of the Labour Code). The Committee reiterates that this requirement is excessive because in many cases it could constitute an obstacle to collective bargaining or even make it impossible. The Committee notes that the Government states once again that the question of amending sections 109 and 110 will be submitted to the Advisory Labour Council with a view to requesting the ILO's technical assistance. The Committee hopes that in the near future the Government will take the necessary measures to make the required amendments to the legislation and requests the Government to keep it informed in this respect.

The Committee also notes the Government's statement that the Directorate of Mediation of the Secretariat of State for Labour serves as the machinery to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations with a view to the regulation of terms and conditions of employment by means of collective agreements. The Committee requests the Government to provide statistical data in its next report on the number of collective agreements concluded in the private and public sectors, including in export processing zones, for the period covered by the report (with indications of whether they are collective agreements concluded at the enterprise or branch level and the number of workers covered).

Finally, the Committee notes with interest that an accord was concluded between the Dominican Association of Free Trade Zones (ADOZONA), the United Federation of Workers of Free Trade Zones (FUTRAZONAS) and the National Federation of Workers of Free Trade Zones (FENATRAZONAS) following a tripartite seminar promoted by the Department of International Labour Standards, which provides, among other things, the reform and the guarantee of the respect of the exercise of the right to freedom of association and the promotion of collective bargaining. The Committee requests the Government to provide information along with its next report on the application of this accord.

Ecuador (ratification: 1959)

The Committee notes the Government's comments.

Article 1 of the Convention. The Committee recalls that in its previous observation it had referred to the need to include provisions in the legislation which guarantee protection against anti-union discrimination at the time of recruitment. The Committee notes the Government's statement that there do not exist acts of anti-union discrimination at the time of recruitment and that the rights and guarantees set forth in international instruments are directly applicable (article 18 of the National Constitution). In this respect, the Committee insists on the need to adopt the above provisions and requests the Government to provide information in its next report on any measure adopted in this respect.

Article 4. The Committee recalls that it had referred to the need to amend section 229 of the Labour Code, regarding the submission of a draft collective agreement, so that minority trade union organizations which do not include more than 50 per cent of workers subject to the Labour Code can negotiate, on their own or jointly, on behalf of their own members. The Committee regrets that the Government did not refer to this matter in its report. The Committee requests the Government to take measures to carry out the necessary amendments as soon as possible.

For several years the Committee has been referring to the need for teaching staff and heads of educational institutions, as well as those who carry out technical and professional functions in the education sector (who are subject to the laws respecting education and the salary scales of teachers), referred to in section 3(h) of the Civil Service and Administrative Careers Act, to benefit from the right to organize and bargain collectively, not only at the national level, but also at the local and establishment levels. Furthermore, in its previous observation, the Committee had noted the Government's indication that the right of association of teaching staff is guaranteed throughout the entire country by the National Union of Education Personnel (UNE), through the existence of UNE branch offices at the local level in each province, and that teaching staff may also form associations in each educational institution, as actually occurs in practice. In this respect, the Committee requests the Government to provide information in its next report on the legal provisions governing the labour relations of these workers and under which they benefit from the guarantees set forth in the Convention.

Article 6. The Committee recalls that it had referred to the need to amend section 3(g) of the Civil Service and Administrative Careers Act so that workers in official departments or other public sector institutions, as well as private institutions in the social or public spheres, can enjoy the rights guaranteed in the Convention. The Committee regrets to note that the Government's report does not refer to this matter. The Committee recalls that, under the terms of *Article 6* of the Convention, only public servants engaged in the administration of the State may be excluded from its scope, but not the workers referred to in section 3(g) of the Civil Service and Administrative Careers Act. The Committee once again requests the Government to take measures to amend the above Act and to provide information in its next report on any measures adopted in this respect.

Finally, the Committee notes the Government's statement that it is resolutely examining the adoption of all the suggested reforms which are necessary and desirable in the light of the Convention. In this respect, the Committee suggests that the Government should have recourse to the Office's technical assistance to ensure that the amendments that are proposed are in full conformity with the provisions of the Convention. The Committee requests the Government to provide detailed information in its next report of any progress achieved in relation to the matters raised above.

Egypt (ratification: 1954)

The Committee takes note of the Government's report.

The Committee recalls that, for a number of years, it had been drawing the Government's attention to the need to amend section 87 of the Labour Code, as amended by Act No. 137 of 1981, which provides that any clause of a collective agreement, which is liable to impair the economic interests of the country, shall be null and void.

In its latest report, the Government indicates that section 87 of the Labour Code has been amended by section 154 of the new consolidated Labour Code, which provides that any clause mentioned in a collective agreement shall be declared null and void if it is in violation of legal provisions, order or public morals.

While noting the adoption of this amendment, the Committee emphasizes that the legal and other provisions in question should themselves be compatible with the provisions of the Convention. The Committee requests the Government to provide in its next report a copy of the new Labour Code, and to confirm that the legislation, as amended, does not make the validity of collective agreements subject to the economic interests of the country.

Estonia (ratification: 1994)

The Committee notes the information provided by the Government in its report, in particular the adoption of the Trade Union Act, which entered into force on 23 July 2000.

In its previous direct request, the Committee had asked the Government to ensure that the legislation guaranteed workers protection against acts of anti-union discrimination and that this protection was coupled with sufficiently dissuasive sanctions. The Committee had also requested the Government to ensure that the legislation included sufficiently dissuasive sanctions against acts of interference by employers and their organizations.

Article 1 of the Convention. The Committee notes with satisfaction that section 19(2) of the Trade Union Act prohibits any restriction on the rights of employees or persons who seek employment, on the basis of their trade union membership. Moreover, section 19(4) allows employees who have been discriminated against on the basis of their trade union membership to demand termination of the restriction, compensation for the damage caused, and the restoration of their former situation. Finally section 184 of the Administrative Offences Code, which entered into force on 2 December 2000, establishes that a fine of up to 100 days' wages may be imposed on employers or any other person responsible for the violation of section 19(2) of the Trade Union Act.

Article 2. The Committee also notes with satisfaction that under section 3(5), of the Trade Union Act, employers' organizations and public authorities are prohibited from interfering in the activities of trade unions, and under the Administrative Offences Code, fines from 100 to 200 days' wages can be imposed for such acts of interference.

Ethiopia (ratification: 1963)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Articles 4 and 6 of the Convention.* The Committee had previously noted that the Constitution of 8 December 1994 granted civil servants the right to organize and to conclude agreements with their employers (article 42). The Committee notes the Government's statement that legislation granting public servants the right to organize and voluntarily negotiate employment conditions is still under consideration. The Federal Civil Service Commission is planning to adopt this legislation in the near future pursuant to the civil service reform on which the country is now embarking. It will be adopted after the concerned organizations provide their comments on the draft legislation.

The Committee requests the Government to indicate in its next report whether the above-noted draft legislation recognizes the right of *all* public servants, with the sole possible exception of those engaged in the administration of the State, the right to negotiate voluntarily their terms and conditions of employment. It further requests the Government to keep it informed of any progress made towards the adoption of this legislation.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Fiji (ratification: 1974)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

1. *Article 2 of the Convention.* The Committee had requested the Government to provide information in its next report on the contents of the 1996 report of the subcommittee of the Labour Advisory Board with regard to the measures to be taken to guarantee adequate protection (accompanied by sufficiently effective and dissuasive sanctions) to workers' organizations against acts of interference by employers or their organizations. In view of the fact that the Committee has been commenting on this issue for several years, it expresses the firm hope that the Government will take the necessary measures in the very near future to ensure full compliance with the Convention on this point.

2. *Articles 3 and 4.* (a) In relation to the Fiji Trade Union Congress' (FTUC) previous comments that the Vatukoula Joint Mining Company has engaged in delaying tactics and has challenged the report of the Commission of Inquiry concerning the refusal by the company to recognize an independent registered Fiji Mineworkers' Union, the Committee requests the Government to inform it of the court's decision in this matter once it is issued.

(b) In response to the Committee's previous comments that the Trade Union (Recognition) Act was silent as to the position of a union which did not represent 50 per cent or more of the employees in a bargaining unit, the Government had pointed out that the amendment of this Act had led to a multiplicity of unions in one undertaking all of which were granted bargaining rights. The Committee notes the Government's indication that the Trade Unions (Recognition) Act (Amendment) Decree of 1991 has been repealed. The Committee requests the Government to amend the Trade Union (Recognition) Act to extend collective bargaining rights, at least on behalf of their members, to the unions in a bargaining unit even when none of them covers 50 per cent of the employees in this unit.

3. *Article 4.* The Committee had noted previously that section 10 of the Counter-Inflation (Remuneration) Act allowed for the restriction or regulation, by order of the Prices and Incomes Board, of remuneration of any kind, and stipulated that any agreement or arrangement which did not respect these limitations would be illegal and deemed to be an offence. The Committee had considered, however, that the powers vested under the Act in the Prices and Incomes Board did not meet the criteria for acceptable limitations on voluntary collective bargaining and had asked the Government to keep it informed of any application in practice of section 10 of the Act. In this context, the Government states in its report that section 10 of the Act has been suspended and there is no immediate plan to reactivate it; however, the Remuneration Guideline is still in place.

The Committee recalls that if, under an economic stabilization or structural adjustment policy, for compelling reasons of national economic interest wage rates cannot be fixed freely by means of collective bargaining, restrictions should be applied as an exceptional measure and only to the extent necessary, should not exceed a reasonable period and should be accompanied by adequate safeguards to protect effectively the standard of living of the workers concerned (see General Survey on freedom of association and

> collective bargaining, 1994, paragraph 260). Since these wage ceilings date back to 1986, the Counter-Inflation (Remuneration) Act cannot be considered to be an exceptional measure introduced for a reasonable period of time. The Committee would accordingly ask the Government to take the necessary measures to amend section 10 of the Act in order to ensure full compliance with the Convention on this point.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Gabon (ratification: 1961)

The Committee notes the information contained in the Government's report, including the information concerning the application of *Article 4 of the Convention*. However, it notes that the report does not reply to the requests made in its observations in 1998, 1999 and 2000 concerning the comments relating to acts of anti-union discrimination and obstacles to collective bargaining made by the Confederation of Gabonese Free Trade Unions (CGSL) and the Free Federation of Energy, Mines and Allied Enterprises.

Recalling that in its previous observation it had specifically requested the Government to ensure that an investigation was undertaken in this regard and to inform it of the results, the Committee once again calls upon the Government to give effect to this request and to keep it informed of the outcome of the above investigation.

Germany (ratification: 1956)

The Committee notes the Government's report. As regards the collective bargaining rights of teachers, the Committee recalls that it had previously considered that it could not allow the exclusion from the terms of the Convention of large categories of workers employed by the State merely on the grounds that they were formally placed on the same footing as public officials engaged in the administration of the State and who, by their functions, were directly employed in the administration of the State – such as, for example, civil servants employed in government ministries and other comparable bodies. The Committee had further considered that teachers carried out duties different from officials engaged in the administration of the State, and therefore should enjoy the guarantees provided for under *Article 4 of the Convention*. Finally, the Committee had invited the Government, along with the trade union organizations concerned, to study ways in which the current system could be developed so as to ensure a proper application of the Convention.

The Government states in its report that pursuant to section 94 of the Federal Civil Servants' Act, the leading organizations of civil servants' unions are involved in the preparation of the general regulations of civil service law in order to compensate for the fact that there is no collective bargaining. The right of the legislator to lay down fundamental principles governing the legal status of civil servants and the organization of their working conditions through legal norms of the State is not, however, to be changed in any way. Furthermore, the Government points out that on 6 September 2000, the Federal Ministry of the Interior and the trade unions signed an agreement, which successfully concluded the experiment of a draft ordinance on regulations pertaining to career, training and examinations. The objective of this project was to test more extensive collaboration with the trade unions. It was a pilot project, in which the trade unions had the opportunity to contribute their experience with a view to designing training courses for the various categories through intensive cooperation in the planning activities. Dialogue with the leading organizations played a major role in this process, and similar intensive involvement of the leading organizations in further suitable projects is planned.

The Committee takes note of this information and requests the Government to keep it informed in future of the outcome of such projects.

Guatemala (ratification: 1952)

The Committee notes the Government's report and the report of the direct contacts mission carried out in Guatemala from 23 to 27 April 2001. The Committee also notes the comments of 8 June 2001 submitted by the Trade Unions and People's Action Unit (UASP) and the Government's reply thereto. The Committee asks the Government to enlarge on its reply by answering the UASP's questions point by point.

The Committee notes with satisfaction the adoption by the Congress of the Republic of Legislative Decree No. 13-2001 of 25 April (during the direct contacts mission), which responds to a request from the Committee by eliminating (pursuant to new section 222 of the Labour Code) the requirement of two-thirds of the union's membership in order for a draft collective agreement to be negotiated and signed, as prescribed in regulation 2(d) of the Regulations on Collective Agreements, of 19 May 1994.

The Committee notes with interest the adoption of Legislative Decree No. 18-2001 of 14 May which substantially reinforces the obligation to reinstate workers dismissed on trade union grounds and the penalties for breach of the Labour Code which are based on a variable number of minimum wages.

The Committee nonetheless observes that the reform does not address another point raised concerning the legislation: the lack of any consultation procedure (in the context of collective bargaining in the public sector, regulated by Legislative Decree No. 35-96), to enable trade unions to express their views to the financial authorities so that the latter may take due account of them in preparing the budget. The Committee asks the Government to take steps to have such consultations guaranteed by law.

Regarding the question raised in the mission report, concerning the failure to comply with final court decisions ordering the reinstatement in their jobs of workers dismissed for trade union activities, the Committee asks the Government to take steps to have section 414 of the Penal Code amended so as to strengthen the penalties for failure to obey the orders and sentences of the judicial authority (currently punishable by fines, the amounts of which are quite out of date), and so that final decisions imposing penalties for anti-trade union persecution are effectively complied with.

The Committee notes that, according to the mission report, there are three drafts or preliminary drafts of a code of procedure for labour matters, the purpose of which is to overcome the delays and inefficiencies of judicial procedures, particularly in the event of anti-union discrimination. The Committee asks the Government and the social partners to hold discussions as to the most appropriate procedures as soon as possible and to keep it informed of developments regarding whichever draft is adopted.

Guinea (ratification: 1959)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee recalls that its previous comments referred to the need for the national legislation to contain specific provisions to protect workers against anti-union discrimination at the time of recruitment and during employment, to protect workers and their organizations against acts of interference by employers, and that these provisions should be accompanied by effective procedures and sufficiently dissuasive sanctions.
>
> The Committee notes the Government's indication that under the provisions of section 3 of the draft Labour Code, drawn up with ILO technical assistance, no employer may take into account the trade union activity or affiliation of workers in decisions regarding contracts, wages and work organization, termination of employment contracts, etc. In this context, the Committee recalls that by virtue of the provisions of *Article 2 of the Convention*, national legislation should also include provisions aimed at protecting workers' and employers' organizations against any acts of interference by each other, and that it is necessary to provide expressly for legal procedures and sufficiently dissuasive sanctions against acts of anti-trade union discrimination and interference so as to ensure the effective application of *Articles 1 and 2*. The Committee draws the attention of the Government to the availability of further ILO technical assistance concerning these questions, in the process of drafting the new Labour Code, and hopes that this Code will be in full conformity with the provisions of the Convention and will be adopted in the near future. The Committee asks the Government to indicate in its next report progress achieved in this regard.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Haiti (ratification: 1957)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In its previous comments, the Committee had requested the Government to provide information on developments concerning: (i) the adoption of a specific provision envisaging protection against anti-union discrimination at the time of recruitment; (ii) the adoption of provisions coupled with effective and expeditious procedures and sufficiently dissuasive sanctions; guaranteeing workers general and adequate protection against acts of anti-union discrimination; and (iii) the amendment of section 34 of the Decree of 4 November 1983 which empowers the Social Organizations Service of the Department of Labour and Social Welfare to intervene in the elaboration of collective agreements.
>
> The Committee regrets that while the Government indicates its intent to adopt other measures in order to give effect to these provisions of the Convention, it continues to respond in very broad terms on the specific points above.
>
> The Committee once again expresses its firm hope that the Government will take the necessary steps to bring its legislation into full conformity with the provisions of the Convention and requests the Government to keep it informed of any developments in this regard.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Honduras (ratification: 1956)

The Committee notes the Government's report.

The Committee recalls that it has been referring for years to the need for the legislation to provide for adequate protection, particularly sufficiently effective and dissuasive sanctions, against acts of anti-union discrimination for trade union membership or activities and against acts of interference by employers or their organization in trade union affairs.

With regard to protection against acts of anti-union discrimination, the Committee notes that, according to the Government: (1) section 469 of the Labour Code, amended by Decree No. 978 of 1980, punishes the impairment of freedom of association by a fine of from 200 to 10,000 lempiras (200 lempiras = approximately US$12) but, these provisions having been deemed inadequate by one workers' confederation, tripartite consultation has been initiated in order to discuss the reform of the labour legislation to align it with the needs of the social partners; this should lead to a bill being submitted to the National Congress of the Republic; (2) section 517 of the Labour Code provides for protection against dismissal, transfer or the downgrading of working conditions without just cause established by the respective authority for workers who notify to the employer and the General Directorate of Labour their intention to organize a trade union, such protection lasting only until the trade union obtains legal personality (prior authorization from the judicial authority is required in order to dismiss workers covered by this special immunity). The Committee hopes that the outcome of the tripartite discussions on labour law reform will be a bill providing for sufficiently effective and dissuasive sanctions against *all* acts of anti-union discrimination. The Committee hopes that such a bill will be prepared in the near future and asks the Government to inform it in this respect in its next report. The Committee also reminds the Government that it may seek technical assistance from the Office in drafting the bill in question.

With regard to protection against acts of interference by employers or their organizations in trade union affairs, the Committee notes from the information supplied by the Government that section 511 of the Labour Code excludes from eligibility for trade union office those members of the union whose duties entail representing the employer or who hold positions of management or personal trust or who are easily able to exert undue pressure on their colleagues. The Committee recalls in this connection that acts to support workers' organizations by financial or other means are included among the acts of interference referred to in *Article 2 of the Convention.* Noting that the Government is planning a reform of the labour legislation with regard to protection against acts of anti-union discrimination, the Committee hopes that the reform will include provisions designed to ensure that workers' and employers' organizations enjoy proper protection against acts of interference by each other, and that there are sufficiently effective and dissuasive sanctions against such acts. The Committee asks the Government to inform it of any measures adopted to this end in its next report.

Iceland (ratification: 1952)

The Committee notes the information supplied by the Government in its report. It further notes the very recent comments of the Icelandic Federation of Labour concerning the application of the Convention. The Committee will examine these questions at its next session.

Indonesia (ratification: 1957)

The Committee notes the information provided by the Government in its report. It further notes with satisfaction the entry into force of the Act of the Republic of Indonesia No. 21 Year 2000 Trade Union/Labour Union.

Article 1 of the Convention. In its previous comments, the Committee had requested the Government to ensure that legislation was amended to include provisions, accompanied by effective and sufficiently dissuasive sanctions, which strengthened the protection of workers against acts of anti-union discrimination at the time of recruitment or during the employment relationship. The Committee notes that, under the terms of section 28 of the Act, workers are protected against acts of anti-union discrimination by employers, in taking up employment and in the course of employment. The Committee further notes with interest that this protection extends to trade union members and leaders for acts of anti-union discrimination involving their dismissal, suspension, demotion, transfer or affecting their wages. It also notes that any violation of this provision is a criminal offence subject to the penalties laid down in section 43 of the Act, which imposes a prison sentence of one to five years and/or a fine of 100-500 million Indonesian rupiahs.

Article 2. In its previous comments, the Committee had requested the Government to adopt specific legislative provisions to protect workers' and employers' organizations against acts of interference by each other accompanied by effective and sufficiently dissuasive sanctions. The Committee notes that section 28 of the Trade Union/Labour Union Act prohibits employers from preventing workers from establishing a union, or from becoming administrators or members of a union, or from carrying out trade union activities by, amongst others, intimidating workers (paragraph (c)) or campaigning against the establishment of unions (paragraph (d)). The Committee notes that violations of these provisions are deemed to be a criminal offence and are also subject to the penalties laid down in section 43 of the Act.

Article 4. In its previous comments, the Committee had requested the Government to ensure that legislation was amended in order to lift the impediments to free collective bargaining. The Committee notes the Government's statement that the draft Manpower Development and Protection Bill and the draft Labour Disputes Settlement Bill, which were drawn up with ILO technical assistance, guarantee freedom of association and collective bargaining. The Government adds that these two Bills are currently being debated in Parliament for adoption. The Committee requests the Government to provide copies of these two laws as soon as they have been adopted.

Iraq (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Articles 1 and 4 of the Convention.* The Committee had observed that the Labour Code (No. 71 of 1987) and Act No. 52 of 1987 regarding trade union organizations contain no provisions that ensure the application of Articles 1 and 4 of the Convention. It notes that the amendments referred to previously are still under discussion and that the Government

states it will provide the text as soon as it is adopted. The Committee expresses the hope that the amendments will be adopted soon and that they will take into account its comments, so as to introduce into the legislation provisions guaranteeing the protection of workers against all acts of anti-union discrimination, enforceable by sufficiently effective and dissuasive sanctions, and to encourage and promote the full development and utilization of machinery for the voluntary negotiation of collective agreements in the private, mixed and cooperative sectors.

Articles 1, 4 and 6. The Committee also observed that Act No. 150 of 1987 regarding public servants does not contain specific provisions to ensure that the guarantees of the Convention are applied to public employees not engaged in the administration of the State. The Committee had asked the Government to supply copies of the laws and regulations applicable to the State and public enterprises and independent public institutions. The Government states that it will send these copies in due course. The Committee had also asked for information on how negotiations are conducted in practice in the abovementioned establishments (number of agreements concluded, number of public employees covered, etc.).

The Committee recalls that under the terms of the Convention public employees not engaged in the administration of the State should enjoy adequate protection against anti-union discrimination and be granted the right to negotiate their terms and conditions of employment collectively.

The Committee trusts that the Government will take the necessary measures in the very near future to apply the Convention and that it will provide the abovementioned texts and information with its next report.

Jamaica (ratification: 1962)

The Committee takes note of the information contained in the Government's report and recalls that its previous comments concerned the following points:

- the denial of the right to negotiate collectively in the case of the workers in a bargaining unit when these workers do not amount to more than 40 per cent of the unit or when, if the former condition is satisfied, a single union that is engaged in the procedure of obtaining recognition does not obtain 50 per cent of the votes of the workers in a ballot that the Minister has caused to be taken (section 5(5) of Act No. 14 of 1975 and section 3(1)(d) of its Regulation);
- the Government should take the necessary measures to amend its legislation so that a ballot is made possible where one or more trade unions are already established as bargaining agents and another trade union claims that it has more affiliated members in the bargaining unit than the other trade unions, and thereby invokes its most representative status in the unit in order to be considered as a bargaining agent.

In its report, the Government indicates that the actual system of designation of bargaining agent and of collective bargaining receives the full support of the social partners and that no reason would justify the modification of the legislation in this regard. The Government explains that several bargaining agents for the same unit can result in different working conditions for the same category of workers if they are not members of the same union. Moreover, the withdrawal of this requirement could lead to *sweetheart agreements* being concluded.

While noting the Government's concern, the Committee would reiterate that where there is no collective agreement and where a trade union does not obtain 50 per cent of the votes of the total number of workers required by law, this trade union should be able to negotiate at least on behalf of its own members. Where one or more trade unions are already established as bargaining agents, a ballot should be made possible when another trade union invokes its most representative status in the unit in order to be considered as a bargaining agent. Moreover, the Committee recalls that, if under a system of an exclusive bargaining agent, no union can be designated as representing the required percentage, collective bargaining rights should be granted to the most representative union in the unit.

The Committee once again requests the Government to take the necessary measures to amend its legislation accordingly and to keep it informed in this regard.

Japan (ratification: 1953)

The Committee notes the information supplied by the Government in its reports. The Committee also notes the comments of the Japanese Trade Union Confederation (JTUC-RENGO), the Japan National Hospital Workers' Union (JNHWU) and the Zenrokyo National Union of General Workers and the Tokyo Zenrodosha Kumiai Labour Union (NUGW). Finally, the Committee notes the recent observations of the JNHWU and JTUC-RENGO dated 22 August and 15 October 2001 respectively, and requests the Government to reply thereto. With regard to the observations of the Zentoitsu (All United) Workers' Union and the National Railway Motive Power Union of Chiba (DORO-Chiba) dated 14 and 25 October 2001 respectively, the Committee notes that the issues raised therein are being examined by the Committee on Freedom of Association within the framework of the follow-up given to its recommendations in Case No. 1991.

1. *Protection against acts of anti-union discrimination.* The Committee notes that the NUGW provides observations relating to acts of anti-union discrimination carried out against its members by two enterprises. The Government indicates that the Trade Union Law has established machinery to relieve victims of unfair labour practices, with a view to preventing discriminatory treatment for participating in union activities. This machinery guarantees workers' rights to organize and bargain collectively. The Government believes that recourse to such machinery by the NUGW will bring about appropriate relief.

The Committee recalls that *Article 1 of the Convention* guarantees workers adequate protection against acts of anti-union discrimination, in taking up employment and in the course of employment including at the time of termination, and covers all measures of anti-union discrimination (dismissals, transfers, demotions and any other prejudicial acts). Moreover, legal provisions which provide for such protection are adequate only if they are coupled with effective and expeditious procedures and with sufficiently dissuasive sanctions to ensure their application.

2. *Promotion of negotiation rights of public employees who are not engaged in the administration of the State.* In its previous comments, the Committee had recalled that the capacity of public employees who were not engaged in the administration of the State to participate in the process of the determination of their wages was substantially limited.

According to JTUC-RENGO, the "negotiation" system under section 5 of the National Public Service Law and section 55 of the Local Public Service Law is merely a system under which authorities can solicit opinions from employees' organizations but is not backed up by any right to conclude collective agreements. The current system has no significance in determining wages and other working conditions through negotiations. JTUC-RENGO is of the view that the current system is a grossly defective one, in which trade unions have no way of taking part in the decision-making process, regardless of how many meetings take place between employees' organizations and the National Personnel Authority (NPA) or the Government. The NPA has the unilateral power to decide what recommendations to make, and the Government can unilaterally decide whether or not to implement these recommendations. The same is true for the local Personnel Commission system which follows much the same objectives and functions as the NPA system. Additionally, a growing number of local governments have recently short-circuited the Personnel Commissions and have directly proposed monthly wage cuts or bonus reductions to local assemblies. These recent developments show that the determination of salaries for national and local public service employees have become increasingly unstable under the recommendation system of the NPA and Personnel Commissions which are not serving as compensatory measures for the restrictions placed on the basic labour rights of public servants. JTUC-RENGO considers that the Government should take prompt steps to remedy the current system of determining wages and other working conditions of public service workers, by providing for their collective bargaining rights.

In its report, after explaining in detail the existing process for determining employment conditions in the public service, the Government reiterates its previous statements concerning the steps taken by the NPA to hear the views of public employees' organizations before making its recommendations to the Government on the revision of remuneration and other working conditions of public employees. In the year 2000, the NPA held official meetings with employees' organizations on 261 occasions between January and August. The Government adds that the NPA also makes its recommendations based on surveys on working conditions. After carrying out fact-finding surveys on the remuneration of nearly 500,000 national public employees and approximately 460,000 employees at nearly 7,600 private establishments nationwide, the NPA makes a detailed comparison of remuneration in the public and private sectors through statistical means and balances pay levels in these two sectors. The Government indicates that the remuneration of national public employees has been revised in accordance with a recommendation to the effect that the gap between salaries in the private and public sectors be reduced. Finally, the Government states that it continues to respect the recommendation system of the NPA which has not lost its role as a compensatory mechanism for the limitations placed on the trade union rights of public servants.

The Committee takes note of this information but once again asks the Government to consider the measures that could be taken to encourage and promote the full development and utilization of machinery for voluntary negotiation with a view to the regulation of terms and conditions of employment by means of collective agreements for public employees who are not engaged in the administration of the State, in conformity with its obligations under *Articles 4 and 6* of the Convention, and to inform the Committee of measures taken in this regard. In this respect, the Committee notes with interest the Government's statement to the Committee on Freedom of Association at its November 2001 meeting that a reform of the public service personnel system is under consideration (see 326th Report of the Committee on Freedom of Association, paragraph 6, approved by the Governing Body at its 282nd Session, November 2001). It accordingly hopes that the existing limitations on the collective bargaining rights of public employees who are not engaged in the administration of the State will be lifted in the near future.

3. *Exclusion of certain matters from negotiation in national medical institutions.* The JNHWU indicates that as of end May 2000, it had branches in 217 national health institutions in the country. However, collective bargaining was held between the management and JNHWU branches in only a very small number of institutions. Moreover, even when collective bargaining is held, most of the items proposed by the union are rejected by hospital management on the grounds they are administrative or management matters, such as for instance, working conditions related to the two-shift work system for nurses in national medical institutions.

The Government indicates that an agreement was reached between the Ministry of Health, Labour and Welfare (MHLW) and the JNHWU's head office on 26 February 1996 that working conditions related to the two-shift work system would be the subject of collective bargaining provided that the *introduction* of the two-shift system itself would be a matter affecting management. The Government believes that negotiations could not be held because JNHWU branches were only demanding abolition of the two-shift work system instead of negotiating on working conditions related thereto. Moreover, the MHLW has been instructing directors of medical institutions to promote appropriate collective bargaining. The MHLW is also providing guidance to the medical institutions, through the Regional Bureaus of Health and Welfare, on how to cope properly with preliminary negotiations with JNHWU branches. The MHLW is also providing guidance on collective bargaining in its training covering key personnel of medical institutions. Thus, the MHLW is steadily implementing measures to encourage voluntary negotiation of terms and conditions of employment of public employees in national hospitals. Owing to such measures, the instances where collective bargaining was undertaken has tripled after 1999. For example, as of 31 December 2000, negotiations were held in 12 medical institutions.

It appears to the Committee from the information available that a certain number of measures seem to have been taken by the Government to encourage the voluntary negotiation of terms and conditions of employment of public employees in national medical institutions. It would encourage the Government to continue taking measures in this regard and to indicate in its next report further progress made in promoting collective bargaining for these workers.

4. *Exclusion of certain matters from negotiation in state enterprises.* In its previous comments, the Committee had noted that section 8 of the National Enterprise Labour Relations Law excluded matters pertaining to the management and operation of state enterprises from collective bargaining. It had further noted that issues such as promotion, demotion, transfer, discharge, seniority and disciplinary action were excluded from collective bargaining in state enterprises because of the application to employees of such enterprises of the National Public Service Law which assimilated the above matters as those relating to "management and operations".

The Committee now observes from the information provided by JTUC-RENGO and the Government that when specified independent administrative institutions were established on 1 April 2001, the National Enterprise Labour Relations Law was revised to cover the employees of such institutions. It is now called the Law concerning Labour Relations at National Enterprises and Specified Independent Administrative Institutions. Section 8 of this Law stipulates that the matters which are subject to collective bargaining in state enterprises are as follows: (1) wages and other remuneration, working hours, rest, holidays and leave; (2) promotions, demotions, transfers, dismissals, suspensions, seniority, and disciplinary action; (3) occupational health and safety and accident compensation; and (4) other matters related to working conditions.

The Committee notes this information with satisfaction. It would ask the Government to transmit a copy of the new National Enterprise Labour Relations Law, along with its next report.

Jordan (ratification: 1968)

The Committee takes note of the Government's report.

1. In its previous comments, the Committee had requested the Government to amend the legislation to provide *expressly* for rapid appeal procedures, coupled with effective and dissuasive sanctions against acts of interference, in order to ensure the application in practice of *Article 2 of the Convention*. The Government states that it has noted the observation and will take it into account when amending the Labour Code.

The Committee hopes that these amendments will be adopted soon and requests the Government to provide it with a copy of these amendments once they are adopted.

2. The Committee had also requested the Government to consider introducing legislative measures in order to extend the rights and guarantees of the Convention to domestic servants, gardeners, cooks and the like, and agricultural workers. The Government states that, while the reasons for excluding some categories of workers still hold (privacy of households; instability and irregularity of agricultural work), a study is currently being undertaken on the possibility of including some categories of agricultural workers.

The Committee takes note of this information, but is bound to reiterate that the Convention does not allow for the exclusion of such categories of workers, and requests the Government once again to consider introducing legislation extending the rights and guarantees of the Convention to all these workers.

3. The Committee requests the Government to inform it in its next report of any progress made in these matters.

Kenya (ratification: 1964)

The Committee notes the Government's report.

1. *Refusal of the right to bargain collectively to public employees not engaged in the administration of the State.* The Committee notes that the Government indicates in its report that the legal framework necessary, as regards comments made by the Committee of Experts, is being reviewed with the task force appointed by the Government to review labour laws in May 2001, which is expected to complete its work

by August 2002. The Committee urges the Government to ensure that the revised legislation is in full conformity with *Articles 4 and 6 of the Convention* and to ensure that public employees, with the sole exception of those engaged in the administration of the State, benefit from the guarantees laid down in the Convention, in particular the right to negotiate collectively their terms and conditions of employment. It requests the Government to keep it informed of any progress in this regard.

2. *Registration of the Kenya Civil Servants' Union.* The Committee notes the Government's indication that the ban imposed on the Kenya Civil Servants' Union was lifted by the President, and that the Parliament has also voted for the reinstatement and operation of the union. The Government also indicates that the reinstatement of the union is now awaiting a decision by the cabinet, following the conclusion of discussions and consultations by the National Tripartite Labour Advisory Board. The Committee requests the Government to keep it informed of any progress in this regard and hopes that this question will be dealt with without delay.

Lebanon (ratification: 1977)

The Committee notes the Government's report.

Articles 1 and 2 of the Convention. In its observations concerning the Government's previous report, while noting that workers and members of trade union committees were protected against dismissal for trade union activities (section 50(d) and (e) of the Labour Code), the Committee had recalled that the protection provided for in *Article 1* of the Convention covered not only dismissal, but *all other discriminatory measures* both at the time of taking up employment and during the course of employment (transfers, demotions and other prejudicial acts). It had also requested the Government to adopt measures providing for effective and sufficiently dissuasive sanctions to protect workers' organizations against all acts of anti-union discrimination and to protect workers' and employers' organizations against acts of interference against each other.

The Committee notes with interest that, according to the Government, under the terms of section 46 of the Budget Act of 2000, the rates of fines for infringements of labour legislation (including the provisions respecting anti-union discrimination) have been multiplied by 25.

The Committee also notes the Government's indication in its report that the draft amendment to the Labour Code provides adequate protection against acts of interference. The draft also prohibits any discrimination in relation to employment on grounds of trade union membership both at the time of recruitment and during the course of employment.

The Committee requests the Government to provide a copy of the draft amendment to the Labour Code and hopes that the future Code will prohibit all acts of anti-union discrimination and interference and will set out effective and sufficiently dissuasive penalties against such acts, as well as rapid compensation procedures.

Article 4. In its previous observations, the Committee had also requested the Government to ensure that the new legislation lowers the percentage of representation required by a trade union to engage in collective bargaining (60 per cent), as well as the percentage of the members of the general assembly of a union required to approve an agreement so that it can come into effect (two-thirds). The Committee notes that the commission responsible for the amendment of the Labour Code has reduced the percentage of representation from 60 to 51 per cent. The Committee notes that, according to the Government, the level of 51 per cent has never impeded the right of bargaining nor is it opposed in the country, and is justified by the fact that the agreement applies to all the workers in the establishment concerned, whether or not they are unionized. While noting the Government's indications on the law and practice, the Committee recalls that where, in a system for the designation of an exclusive bargaining agent, no union represents the required percentage to be designated the exclusive bargaining agent, the rights of collective bargaining should be accorded to the most representative trade unions in the unit concerned, at least to bargain on behalf of their own members. In this respect, the Committee requests the Government to take the necessary measures to bring its legislation into conformity with the Convention on this point.

With regard to the requirement of the approval of two-thirds of the general assembly for a collective agreement to come into effect, the Government indicates that the commission for the amendment of the Labour Code will examine the question of changing this proportion so that the level of two-thirds is calculated on the basis of the 51 per cent proposed as the quorum required for the general assembly of the union. The Committee requests the Government to keep it informed in this respect and to examine the possibility of this matter being determined by the rules of the bargaining agents.

Article 6. In its previous observations, the Committee had requested the Government to amend the legislation so that workers in the public sector governed by Decree No. 5883 of 1994 benefited from the right to collective bargaining and it had recalled that recourse to compulsory arbitration in three enterprises in the public sector covered by Decree No. 2952 of 20 October 1965 should only be at the request of both parties. The Government indicates in its report that the commission for the amendment of the Labour Code is currently examining the comments of the Committee of Experts.

The Committee once again requests the Government to ensure that the necessary amendments are made to the labour legislation on all the points raised above so as to bring it into conformity with the requirements of the Convention and to keep it informed of any progress achieved in this respect.

Lesotho (ratification: 1966)

The Committee notes that the Congress of Lesotho Trade Unions (COLETU) has sent communications dated 4 and 14 November 2001 on the application of the Convention. The Committee requests the Government to send its observations thereon for examination at its next meeting.

Liberia (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Articles 1, 2 and 4 of the Convention.* The Committee recalls that for many years it has been emphasizing the need for national legislation to guarantee workers adequate protection against anti-union discrimination at the time of recruitment and during the employment relationship, accompanied by sufficiently effective and dissuasive sanctions.

> The Committee has also stressed that national legislation must ensure adequate protection of workers' organizations, accompanied by sufficiently effective and dissuasive sanctions, against acts of interference by employers and their organizations. Finally, the Committee had noted that the possibility of engaging in collective bargaining was not offered to employees of state enterprises and other authorities since these categories were excluded from the scope of the Labour Code, whereas under *Article 6* of the Convention, only public servants engaged in the administration of the State are not covered by the Convention.
>
> The Committee notes the information given by Government that a draft Decree and a Bill have been submitted to the national authorities. The draft Decree is aimed at recognizing and protecting freedom of association and the right to organize and bargain collectively, and at preventing discrimination in employment and occupation.
>
> The Committee hopes that the draft Decree and Bill will integrate the abovementioned observations of the Committee, to bring the legislation in conformity with the Convention. The Committee requests the Government to keep it informed of any developments in this respect and to transmit the texts of the draft Decree and Bill as soon as they are adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Libyan Arab Jamahiriya (ratification: 1962)

The Committee notes the Government's report and the promulgation of Law No. 23 of 15 December 1998 on trade unions, federations and professional associations.

Article 1 of the Convention. In its previous comments, the Committee had noted that while section 34 of Act No. 107 of 1975 protected workers against acts of anti-union discrimination during employment relationships, it did not provide such protection *at the time of recruitment.* Moreover, the Committee had noted that public servants not engaged in the administration of the State, agricultural workers and seafarers did not enjoy any protection against acts of anti-union discrimination. The Committee had requested the Government to take appropriate measures as soon as possible as regards these issues.

Noting that the Government's report contains no specific reply on these matters, the Committee once again requests the Government to take the necessary measures to ensure that the legislation protects all workers (including public servants not engaged in the administration of the State, agricultural workers and seafarers) against acts of anti-union discrimination, both at the time of recruitment and during the employment relationship, and that such protection is accompanied by sufficiently dissuasive sanctions.

Article 4. In its previous comments, the Committee had requested the Government to repeal sections 63, 64, 65 and 67 of the Labour Code, which require the clauses of collective agreements to be in conformity with national economic interest, thus violating the principle of voluntary negotiation of collective agreements and the autonomy of the bargaining parties. The Committee notes that the Government's report contains no reply in this regard, and once again urges the Government to repeal the abovementioned sections to bring its legislation into conformity with the Convention.

The Committee had also noted that public servants not engaged in the administration of the State, agricultural workers and seafarers did not have the right to bargain collectively, and requested the Government to take the necessary measures. The

Government states that these workers may belong to trade union organizations, which guarantee them the right to collective bargaining. The Committee requests the Government to indicate in its next report the legislative provisions that grant these workers the right to bargain collectively, and to give examples of collective agreements in force in this sector.

The Committee expresses, once again, the hope that the Government will make every effort to take the necessary action in the very near future.

Malaysia (ratification: 1961)

The Committee notes that the Government's report does not contain a full reply to its previous comments. It hopes that the next report will include full information on the matters raised in its previous observation.

For a number of years the Committee has been commenting on the need to repeal section 15 of the Industrial Relations Act (IRA) which limits the scope of collective agreements for companies granted "pioneer status". Since 1994, the Government has indicated to the Committee that the provision was in the process of being repealed; however, the Committee notes that, according to the Government, the repealing legislation has been inadvertently delayed in order to accommodate other amendments to the Act, so that the Act could meet the rapidly changing work environment. Given that section 15 of the IRA constitutes a violation of *Article 4 of the Convention*, and that six years have passed since the Government indicated that the appropriate amendments would be made, the Committee urges the Government to ensure there are no further delays in repealing section 15, and to forward a copy of the repealing legislation as soon as it is adopted.

With respect to the Committee's previous comments concerning the restrictions on collective bargaining contained in section 13(3) of the IRA, the Committee notes that the Government reiterates its view that issues pertaining to such things as transfer, dismissal and reinstatement essentially refer to individual rights which could not be predetermined in a collective agreement, since this would affect the rights of management to manage. The Committee must again recall that issues such as transfer, dismissal and reinstatement should not be excluded from the scope of collective bargaining. While a collective agreement would not normally deal with individual cases of transfer, dismissal and reinstatement, it should be possible to include for example, as is often found in the collective agreements in many countries, the general criteria and procedures concerning these issues. The Committee urges the Government to amend the legislation to bring section 13(3) into full conformity with *Article 4* of the Convention.

A further provision of the IRA has also been a subject of comment for many years, namely section 52, which provides for certain restrictions on the right to bargain collectively for public servants, other than those engaged in the administration of the State. Lacking detailed information, the Committee has not been in a position to determine whether genuine collective bargaining exists in this sector or merely consultation. In this regard, the Government again points to the role of the national joint councils in providing an avenue for discussion and negotiation on terms and conditions of employment, including salaries, of public servants. While the Committee has in the past noted this information, it once more requests the Government to provide specific information on how collective bargaining is encouraged and promoted in practice between public employers and public servants. In particular, the Committee would welcome information on the number of employees covered, and the specific issues discussed. The Committee again requests the Government to provide this information as well as examples of the process that has been followed to reach specific collective agreements for public servants.

The Committee requests the Government to indicate in its next report the steps taken or envisaged to bring the abovementioned provisions into full conformity with the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Mauritius (ratification: 1969)

The Committee notes the Government's report. It also notes the comments made by the International Confederation of Free Trade Unions (ICFTU) and requests the Government to provide its observations on the matters raised therein.

Article 2 of the Convention. In its previous observation, the Committee had expressed the firm hope that measures would be taken to adopt specific legal provisions in the near future to guarantee effective protection against acts of interference by employers and their organizations in the activities of workers' organizations and vice versa, and that such protection would be accompanied by effective and sufficiently dissuasive sanctions. The Committee had noted that the Draft Labour Relations Bill was being examined by the relevant authorities, and that consideration was being given to the observations made by the Committee of Experts.

The Committee notes that the Government reiterates in its report the same information. The Committee requests the Government to keep it informed of any progress in this regard.

Republic of Moldova (ratification: 1996)

The Committee notes the first report of the Government.

The Committee takes note with satisfaction of the law on trade unions dated 7 July 2000, which complies with the requirements of the Convention.

Morocco (ratification: 1957)

The Committee takes note of the Government's report.

1. *Articles 1 and 2 of the Convention.* The Committee recalls that its previous comments concerned the need to adopt legislative measures to ensure adequate protection, coupled with sufficiently dissuasive sanctions, against acts of anti-union discrimination and interference.

The Committee notes with satisfaction the enactment and promulgation of Act No. 11-98, amending and supplementing Dahir No. 1-57-119 of 16 July 1957 on occupational trade unions. As amended, the legislation: forbids occupational employers' and employees' organizations from interfering directly or indirectly in each other's business; prohibits any impairment of the independence of such bodies, their constitution, management or administration; forbids any natural person or legal entity from hindering the exercise of the right to organize; and prohibits any discrimination between employees based on trade union membership or activity, particularly as regards hiring, the carrying out and distribution of work, vocational training, promotion, the award of social benefits, dismissal and disciplinary measures.

The Committee notes with interest that the amending law: (a) extends the scope of the provisions on sanctions for infringements of the exercise of the right to organize, as "it now applies to all natural persons or legal entities"; and (b) removes a number of restrictions on trade union activities by minors.

2. *Article 4.* In its previous report the Committee noted that a committee had been set up to revise the draft Labour Code, and had made a number of improvements to it (particularly as regards compulsory arbitration), and expressed the firm hope that the draft would be adopted shortly.

The Government indicates that the competent committee is soon to study and discuss the draft in full and that, in parallel, the social partners are pursuing their consultations in a tripartite committee for social dialogue, on a number of points in the draft which are in dispute.

The Committee again expresses the firm hope that the draft will shortly be adopted and again asks the Government to keep it informed in this respect.

3. *Article 6.* With regard to the provisions of the draft Labour Code that concern collective bargaining, the Government states in its last report that, like workers in the private sector, public servants and public sector employees have the right to organize and bargain collectively pursuant to Dahir No. 1-58-008 of 24 February 1958 and Dahir No. 2-57-1465 of 5 February 1958 and that there are committees in the public service sector in which the sector unions negotiate the employment conditions of public servants.

The Committee notes, however, that section 4 of Dahir No. 1-58-008 of 24 February 1958 establishing the general statute of the public service states that some categories (teachers, prison services, lighthouse personnel, water and forestry personnel) are governed not by the general statute but by specific statutes. The Committee recalls that public servants not engaged in the administration of the State should enjoy the rights and guarantees of the Convention, particularly the right to collective bargaining. It asks the Government to indicate whether the above categories have the right to collective bargaining and to send any relevant information in its next report.

Netherlands (ratification: 1993)

The Committee recalls that in communications dated 18 November 1999 and 8 November 2000, the Netherlands Trade Unions Confederation (FNV) indicated that the *Act on the Legal Status of Judicial Officials* provided for trade union monopoly, in that it recognized the Netherlands Association for Administration of Justice (NVvR) as the only negotiating party allowed to take part in the consultation on terms of employment, and that all other organizations representing civil servants in the judiciary were thus denied the right to bargain collectively on behalf of their members. Furthermore, the FNV had indicated that its civil servants' union ABVAKABO also had members in the judiciary, and that the monopoly position of the NVvR provided for by the law had prohibited the ABVAKABO from bargaining collectively on behalf of its members. The FNV had also indicated having made an effort to engage in informal dialogue with the Ministry of Justice, but that no progress had been made in this regard and that the relevant legislation had not been amended.

The Committee takes note of the Government's report dated 11 December 2000, in which it indicates having reached an agreement on 28 November 2000 with the NVvR to the effect that, from now on, in addition to NVvR, other associations representing civil servants in the judicial sector may also take part in the consultative meetings concerning terms of employment. The Government also indicates that it will amend the *Act on the Legal Status of Judicial Officials* as soon as possible in conformity with the agreements made with the NVvR, and that should an association representing judicial officials request admission to the negotiations on terms of employment before the legislation had been amended, it would act in accordance with the intended amendment.

The Committee takes due note of this information. It requests the Government to keep it informed of progress made in amending the legislation.

Norway (ratification: 1955)

The Committee takes note of the observations contained in the Government's report as well as the information contained in a communication of the Independent Union's Forum (UFF) and the comments thereon made by the Government. It recalls that its previous comments concerned the following.

Article 4 of the Convention. In its previous observations, the Committee had requested the Government to provide information on any progress made by the national committee appointed by the Government to review the system of collective bargaining and the settlement of industrial disputes. In this regard, the Committee had expressed the hope that the national committee would find a solution in order to bring the legislation into conformity with the requirements of the Convention, in particular in respect to compulsory arbitration which should not be resorted to as a means of resolving labour disputes unless both parties to the bargaining process participated voluntarily in the arbitration process or unless compulsory arbitration was only used in cases of essential services in the strict sense of the term.

The Committee notes that in its report the Government describes proposals of amendments to the Labour Disputes Act made by the national committee. The first proposed amendment concerns the power of the mediator appointed under the Labour Disputes Act to order a ballot among workers' and employers' organizations over a proposal for a settlement. The second amendment, about which there was a division in the national committee, relates to the current provision of the Act – section 35, subsection 7 – whereby the mediator has the power to join ballots of the trades concerned so that the acceptance of a proposal for a settlement depends on the total voting in all the sectors concerned. This last provision has not been applied for quite some time but according to the Government, it would be reactivated should the first amendment be implemented. In its report, the Government underlines that the proposals of the national committee are subject to a broad consultation, involving all the social partners, on the basis of which the Government will take a decision in respect of its submission to Parliament and inform the Committee accordingly. The Committee further notes the comments made by the UFF on specific proposed amendments which, in its view, would bring the Labour Dispute Act into contradiction with ILO Conventions.

While duly noting that the Government has not taken a decision on the proposals of the national committee yet, the Committee considers that a proposal whereby the mediator can order a vote among workers' and employers' organizations and additionally join the ballots of the trades concerned, might lead workers' and employers' organizations to be bound by a majority decision over a settlement proposal against their will, and would thereby substantially impair the voluntary nature of collective bargaining which in accordance with *Article 4* of the Convention should take place between the workers' and employers' organizations specifically concerned. Such a situation would impair the right to resume negotiations by binding organizations to a settlement even if they have rejected it. The Committee trusts that the Government will fully take into account the requirements of the principle of voluntary collective bargaining set forth in *Article 4* of the Convention and asks the Government to keep it informed of any developments in respect of the proposals made by the national committee.

Pakistan (ratification: 1952)

The Committee notes the information provided by the Government in its report. It also notes the Government's communication dated 20 October 2001 in reply to the comments made by the All Pakistan Federation of Trade Unions (APFTU) regarding the prohibition or the limitations of trade union and collective bargaining rights in several industries, in which the Government indicates that employees of autonomous and semi-autonomous bodies and corporations (i.e. banks, railways, WAPDA, telecommunications and other state enterprises) are not civil servants within the meaning of section 2(1)(b) of the Civil Servants Act of 1973, as the terms and conditions of their service are not regulated by the Act. Furthermore, the Government indicates that the employees of the abovementioned organizations were declared civil servants for the limited purpose of enabling them to file appeals before the Federal Service Tribunal regarding penalties imposed in disciplinary matters. The Committee also notes the comments made by the International Confederation of Trade Unions (ICFTU) in a communication dated 18 September 2001 and asks the Government to reply thereto.

The Committee's previous comments referred to the serious discrepancies between national legislation and the Convention on the following points:

- Denial of free collective bargaining in the public banking and financial sectors (sections 38-A to 38-I of the Industrial Relations Ordinance (IRO), 1969). The Committee notes that other categories of workers are also deprived of the rights provided for in the Convention (public servants of grade 16 or above, public servants in forestry and railways, hospital workers, postal service employees, civil aviation employees).

  The Government states that these services are connected with security and defence of the country. The Committee recalls that only armed forces, the police and public servants engaged in the administration of the State can be excluded from the guarantees of the Convention and asks the Government to take measures in order to bring the legislation in conformity with the Convention.

- Denial of the rights guaranteed by *Articles 1* (protection against anti-union discrimination), *2* (protection against acts of interference), and *4* (right to bargain collectively) *of the Convention* for workers in export processing zones (section 25 of the Export Processing Zones Authority Ordinance, 1980).

The Government indicates in its report that it has decided to authorize the Export Processing Zones Authority (EPZA) to frame the labour laws, and that draft laws are being finalized. The Government also indicates that these laws will meet the requirements of the Convention. The Committee requests the Government to provide it with a copy of the draft legislation and to ensure that these workers are very soon provided with all the guarantees enshrined in the Convention.

- Lack of sufficient legislative protection for workers dismissed for their trade union membership or activities (the judgement of the Supreme Court of 11 August 1994 restricts the right to judicial recourse in case of dismissal when it is not connected with an industrial dispute thus impeding the possibility of reinstatement provided for under section 25-A of the IRO).

The Committee regrets that the Government has not sent information in this respect and asks it to take the necessary measures to guarantee adequate protection.

Panama (ratification: 1966)

The Committee notes the Government's report and the comments made by the National Council of Organized Workers (CONATO) in a communication dated 21 August 2001.

1. The Committee had previously requested the Government to take measures to reduce the length of conciliation procedures (35 working days) set out in Decree No. 3 of January 1997, applicable to export processing zones, which could impede the application of *Article 4 of the Convention*. The Committee notes the Government's indication in its report that the special commission for disputes sets the following time limits which, in its opinion, are reasonable, for conciliation procedures: ten days for the party to contest the allegations; 20 days to achieve a negotiated solution; and, if the parties have not reached an agreement, the above commission has five days to submit a proposed solution to the parties. The Committee notes that, according to the Government, during these periods the parties may continue negotiating directly and, if they consider it appropriate, may have recourse to an arbitration tribunal.

2. The Committee also noted the 310th and 318th Reports of the Committee on Freedom of Association (June 1998 and November 1999), in which the latter examined Case No. 1931, submitted by two employers' organizations. The Committee shared the opinion of the Committee on Freedom of Association and emphasized the need to amend: (1) section 427(3) of the Labour Code, which restricts the composition of the representatives of the parties (delegates and advisers) to the collective bargaining process, so that the parties themselves may determine this issue; (2) section 510(2) of the Labour Code, which imposes disproportionate penalties for withdrawal from the conciliation procedure and failure to reply to statements of claims; and (3) the restricted possibilities for the collective negotiation of the payment of wages in the event of a strike (section 154 of the Code).

The Committee notes the Government's statements, and particularly that: (1) the Government expresses great interest in complying with ILO standards, but unfortunately does not have the necessary Parliamentary majority; (2) the workers' organizations have expressed their total opposition to the reforms concerned; (3) this problem can only be resolved through social dialogue and the Government is promoting such dialogue through four technical projects supported by the ILO and other bodies to create the conditions for achieving draft legislation agreed to by employers and workers; and (4) the Government has requested the technical assistance of the ILO in relation to the reforms and, through the national tripartite delegation to the 89th Session of the Conference, has sought ways of finding a solution with the International Labour Standards Department, which resulted in the idea of organizing seminars on international labour standards to promote the harmonization of the national legislation with Conventions. The Government hopes that these seminars can be organized in 2002.

The Committee emphasizes the need to amend the above legal provisions and hopes that the legislative reforms will be undertaken in the very near future.

3. The Committee notes that the comments of the CONATO on the application of the Convention refer in particular to: restrictions on the right to collective bargaining in the public sector, the maritime sector, enterprises in export processing zones and enterprises that have been established for less than two years; collective bargaining by groups of non-unionized workers in the private sector, even where a trade union exists, in the context of acts of interference by the employer; the rejection by the employer of statements of claims in certain cases, such as where trade unions threaten collective action or where agreements already exist concluded by representatives of non-unionized workers; and certain specific acts of anti-union discrimination. The Committee notes the Government's comments in this respect, in which it denies and comments on CONATO's statements from the point of view of the legislation.

In view of the high number of questions raised concerning the application of the Convention, the Committee suggests that the Government should promote tripartite discussions on these matters and that, after consulting the employers' and workers' organizations, it should consider the possibility of jointly requesting the technical assistance of the ILO with a view to the Committee being able to evaluate the application of the Convention with all the elements at its disposal and being able to find solutions to the problems raised.

Papua New Guinea (ratification: 1976)

The Committee notes the Government's report. In its previous comments, the Committee had asked the Government to amend section 42 of the Industrial Relations Act and section 52 of the Public Service Conciliation and Arbitration Act, which give the authorities a discretionary power to cancel arbitration awards or declare wages agreements void when they are contrary to government policy or national interest.

The Government indicates that the national labour legislation was reviewed with ILO technical assistance, to ensure its compliance with the fundamental ILO Conventions. The Industrial Relations Policy Reform and Drafting Instruction have been endorsed by the National Tripartite Consultative Council in July 2000. The Policy Reform was submitted to the National Executive Council in November 2000 and the Drafting Instruction was submitted to the Legislative Council. However, due to errors in the Drafting Instruction, particularly as regards appeals in the public service, the Department of Personnel Management requested the Department of Labour and Employment to re-examine the document. The National Executive Council will examine the Policy once the issues raised by the Department of Personnel Management are dealt with.

The Committee expresses the firm hope that the issues raised concerning the Drafting Instruction will be examined without delay, so that the amendments repealing section 42 of the Industrial Relations Act and section 52 of the Public Service Conciliation and Arbitration Act may be adopted in the very near future. The Committee asks the Government to inform it of any progress made in this regard and to send a copy of the amended legislation as soon as it is adopted.

Paraguay (ratification: 1966)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. The absence of legislative provisions providing workers who are not trade union leaders with adequate protection against acts of anti-union discrimination. The Committee notes with regret that the Government's report contains no information on this point. The Committee considers that Article 1 of the Convention guarantees all workers adequate protection against acts of anti-union discrimination not only at the time of recruitment but also throughout their employment. The Committee again requests the Government to take the necessary measures to ensure that national legislation gives full effect to *Article 1 of the Convention.*
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> 2. Sanctions against non-observance of the provisions relative to the employment stability of trade unionists and acts of interference by workers' and employers' organizations in each other's organizations. The Committee had noted that the sanctions envisaged in the Labour Code for non-observance of the legal provisions concerning this point (sections 385 and 393 of the Labour Code) are not sufficiently dissuasive. The Committee notes with interest the enactment of Act No. 1416 which amends section 385 of the Labour Code and which enforces new sanctions such as the temporary suspension of employer activities for a period of eight days with full pay to employees, and the cancellation of the employer's register. These measures are applicable in the event of a second or third repeat infraction by the employer where non-compliance affects more than 10 per cent of all employees or in the event of infraction of the job security of trade unionists. The Committee notes that the constitutionality of this Act is before the Supreme Court of Justice, and the provisions of the Act have been stayed pending the Court's decision. The Committee requests the Government to keep it informed of any progress in this regard and on the measures adopted to enhance the existing protection, in conformity with *Articles 1 and* 2 of the Convention.

The Committee notes that the Government representatives and the technical assistance mission which visited the country in 2000 prepared a draft law which takes into consideration the comments made in its observations and that the representatives of the most representative organizations of workers are in agreement with the proposed measures. The Committee expresses the hope that the draft law in question will be submitted to the legislative authority in the near future, and requests the Government to keep it informed of developments.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Peru (ratification: 1964)

The Committee notes the Government's report and the discussions that took place in the Conference Committee in 2001. It also takes note of the report of the Committee on Freedom of Association on a number of cases before it which concern Peru (see 324th, 325th and 326th Reports of the Committee on Freedom of Association).

Articles 1 and 2 of the Convention. In its previous observation the Committee had referred to the lack of sanctions against acts of interference by employers in trade union organizations. The Committee notes the information supplied by the Government to the effect that meetings are held in the National Council for Labour and Social Welfare, which is tripartite, with a view to producing appropriate legislation which imposes restrictions on acts of interference by employers in trade union organizations, in order to comply with the provisions of the Convention. The Committee hopes that such legislation will be adopted in the near future and asks the Government to provide detailed information in this respect in its next report.

The Committee also referred to the slowness of the judicial procedure for dealing with complaints of acts of discrimination. In this connection, the Committee notes the Government's indication that it is aware of the need to propose judicial procedures which are more expeditious and in closer keeping with the rules of law, and free from any political or other interference likely to impair their transparency. That is why rules both on labour procedures and on any related procedures may be discussed and reformulated in the Council with a view to a consensus decision to encourage speed and transparency in all judicial labour procedures. Furthermore, various measures have been taken with a view to making the administration of justice more expeditious and improving its quality through new laws and bodies. The Committee expresses the firm hope that, as a result of all the foregoing, means of redress against acts of discrimination will be expeditious and efficient in the near future.

Article 4. The Committee recalls that in its previous observation the Committee had referred to the requirement of a majority of both the number of workers and the number of enterprises to conclude a collective agreement covering a branch of activity or occupation (sections 9 and 46 of the Industrial Relations Act), observing that this double requirement was excessive and difficult to meet. It had requested the Government to confirm that the present legislation did not prevent the parties from negotiating, even when the union could not satisfy the double requirement, if the collective agreement did not have *erga omnes* effect, and, if that was not the case, to take steps to ensure that the legislation clearly established the right to collective bargaining of sufficiently representative organizations representing less than 50 per cent. The Committee notes that the Government reiterates its political determination to meet the social partners with a view to reaching agreement on aligning the legislation with the Convention. The Committee hopes that the appropriate amendments will be adopted in the near future and enable inconsistencies with the Convention to be removed.

The Committee also had asked the Government to take steps to repeal section 9 of the Unified Text of Legislative Decree No. 728 (act on labour productivity and competitiveness) under which employers may introduce changes unilaterally in the content of existing collective agreements or the latter must be renegotiated. The Committee notes that, according to the Government, the provision also sets limits on the authority granted to the employer, for example the latter may issue provisions only of a regulatory nature so that higher ranking rules (Constitution, laws, collective agreements) take precedence over them; furthermore, any change the employer may decide to introduce in conditions of work set in a collective agreement must be made within that provision of the agreement. While noting the foregoing, the Committee takes the view that, as it now stands, section 9 raises problems of consistency with the Convention. The Government is therefore asked to make the necessary amendments in order to align the wording of this provision with its interpretation of it.

The Committee had also referred in its last observation to the overall financial increment based on productivity for the public sector, established by Emergency Decree No. 011-99 and Ministerial Resolution No. 075-99-EF/15. In this connection, the Committee notes that, according to the Government, Article 1(d) of the abovementioned Ministerial Resolution provides that in the case of workers covered by collective agreements, the increment will be addressed and granted in the collective bargaining process. According to the Government, workers covered by the collective agreement who have been evaluated negatively will not be entitled to the increment, but they will be entitled to salary increments negotiated between the parties. The legal texts referred to merely establish the content of the position that public bodies will have in collective bargaining. The Committee shares the view expressed by the Committee on Freedom of Association that provisions issued by the Executive or by law which impose on the negotiating parties productivity criteria for the grant of an increase in workers' wages and exclude general wage increases, restrict the principle of free and voluntary collective bargaining established by the Convention. In these circumstances, the Committee joins the Committee on Freedom of Association in requesting the Government to repeal or amend the abovementioned Decree and resolution to ensure that it is up to the parties themselves to decide whether, in their collective bargaining, they wish to use productivity criteria in determining wages (see 325th Report of the Committee on Freedom of Association, Case No. 2049, paragraph 522).

Lastly, the Committee recalls that for many years the Government has been referring to various bills to amend the Industrial Relations Act. The Committee notes that the Government states once again that the latest Bill, dated 31 July 2000, has been abandoned, and that it intends to carry out a reform agreed by consensus with the social partners which will be consistent with the Convention.

The Committee expresses the firm hope that the Government will take the necessary steps to ensure that the abovementioned reform will take account of all the issues raised. It reminds the Government that it may seek technical assistance from the Office in this process if it so wishes.

Philippines (ratification: 1953)

With reference to its previous comments concerning the need to encourage and promote collective bargaining in the public sector, the Committee notes the information supplied by the Government in its report according to which the draft Civil Service Code, which had reached the various legislative processes during the 12th Congress, had been adjourned by the Congress without being passed. The Civil Service Commission will now re-file the draft Code before the 13th Congress.

Recalling the importance of the development of collective bargaining in the public sector and the fact that the draft Civil Service Code was first filed before Congress over ten years ago, the Committee firmly hopes that the said legislation will be adopted in the near future. It further trusts that the said legislation will fully grant to public sector employees not engaged in the administration of the State the right to negotiate their terms and conditions of employment in accordance with *Articles 4 and 6 of the Convention*. It once again requests the Government to provide a copy of the draft Civil Service Code as soon as it is adopted.

Portugal (ratification: 1964)

The Committee notes the Government's report and the comments made by the General Confederation of Portuguese Workers (CGTP) and the Confederation of Portuguese Industry (CIP) on the application of the Convention.

Article 4 of the Convention. 1. The Committee recalls that for a number of years it has been referring in its observations to section 35 of Decree No. 209/92 which envisages that any of the parties to collective bargaining or the administrative authority or (in the case of public enterprises) the Economic and Social Council may refer disputes arising from the negotiation of a collective agreement to compulsory arbitration, particularly where agreement is not reached within two months. The Committee notes that the CGTP and the CIP criticize the Decree in question and indicate that the imposition of compulsory arbitration is not suited to a process of free and voluntary bargaining. In this respect, the Committee notes that the Government: (1) refers to the reasons which gave rise to the legislation imposing compulsory arbitration (social agreements with certain trade union and employers' federations, etc.) and points out that it has not yet been applied because the trade union and employers' federations represented on the Economic and Social Council have not yet determined the list of persons who could act as arbitrators; (2) refers to paragraphs 257, 258 and 259 of the 1994 General Survey to justify the existence of compulsory arbitration; and (3) indicates that it notes the position of the Committee and is analysing the positions of the social partners concerning compulsory arbitration. The Committee recalls once again that legislation which allows one of the parties to a dispute to impose unilaterally the intervention of the administrative authority for the purpose of compulsory arbitration is inconsistent with the promotion of collective bargaining. In these circumstances, the Committee requests the Government, with a view to bringing its legislation into full conformity with the Convention, to take measures to amend the Decree in question so as to ensure that, except in the case of essential services, or for the conclusion of the first collective agreement or the emergence of a deadlock that cannot be overcome after protracted and fruitless negotiations, any recourse to compulsory arbitration is at the request of both parties only. The Committee requests the Government to provide information in its next report on any measure adopted in this respect.

2. The Committee notes that the CGTP refers in its observations to: the possibility of derogating from clauses in collective agreements under the terms of Act No. 21/96 of 23 July and Legislative Decree No. 64-A/89; the absence of labour regulations adopted by administrative authority in cases in which collective bargaining is not undertaken due to the absence of employers' organizations; and the delay in the adoption of decisions to extend collective agreements.

With regard to the CGTP's comments on the possibility of derogating from clauses of collective agreements that have been freely concluded under the terms of Act No. 21/96 of 23 July and Legislative Decree No. 64-A/89, the Committee recalls that in its observation in 1997 it had commented on Act No. 21/96, when it emphasized that a provision of a law establishing that normal working hours may not exceed 40 per week was not inconsistent with the Convention in so far as it implied an improvement in working conditions and did not prevent the parties from negotiating and establishing a shorter working day in collective agreements. With regard to Legislative Decree No. 64-A/89 respecting the legal situation concerning the termination of individual employment contracts, the Committee notes that, even though section 2 provides that, unless legal provisions establish the contrary, their legal status cannot be changed by clauses in collective labour agreements or individual contracts, section 59 provides that the values and criteria for the determination of benefits, the time limits for disciplinary proceedings, the trial period and the notice period, as well as the priority criteria for retention in employment in cases of collective dismissals, may be determined by means of collective regulations taking the form of an agreement. The Committee considers that the Legislative Decree in question does not violate *Article 4* of the Convention since it permits the social partners to negotiate a broad range of aspects related to termination of employment.

With regard to the CGTP's comments on the absence of labour regulations adopted by administrative authority in cases in which there is no collective bargaining as a result of the absence of employers' organizations, the Committee notes the Government's statement that the Convention does not place the authorities under the obligation to take any action in such cases and that there are six employers' confederations covering all branches of economic activity which have the capability of concluding collective agreements.

Finally, with regard to the CGTP's comments on the delay in adopting decisions to extend collective agreements, the Committee notes the Government's indication that this matter is not covered by the Convention and that there could have only been a delay of one month in two cases.

Rwanda (ratification: 1988)

The Committee notes the Government's report.

Article 1 of the Convention. The Committee had previously drawn the Government's attention to the need to take measures to ensure adequate protection for workers against acts of anti-union discrimination, combined with sufficiently dissuasive and effective sanctions, and it had requested it to keep the Committee informed of the progress achieved in the adoption of the new Labour Code.

The Committee notes with interest that, according to the Government, section 160 of the draft Labour Code protects all workers, including agricultural workers, against acts of anti-union discrimination, and provides for dissuasive sanctions to this effect. However, noting that the Government has been referring to this draft Labour Code since 1997, the Committee hopes that it will be adopted rapidly and requests the Government to provide the text as soon as possible.

Article 4. The Committee had previously requested the Government to keep it informed of any developments concerning the conclusion of collective agreements in the country. The Government reiterates that no collective agreement has been concluded up to the present. Furthermore, the Committee notes with regret that, contrary to the intentions expressed previously by the Government concerning the promotion of collective bargaining, the draft Labour Code does not envisage permanent consultation machinery.

The Committee draws the Government's attention to its comments concerning bodies and procedures intended to facilitate collective bargaining (1994 General Survey on freedom of association and collective bargaining, paragraphs 244-247) and invites it to establish such machinery with a view to facilitating and promoting the broadest utilization of procedures for the voluntary negotiation of collective agreements in the country. It requests the Government to keep it informed of any developments in this respect.

Sierra Leone (ratification: 1961)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Articles 1 and 2 of the Convention. Need to adopt specific provisions accompanied by sufficiently effective and dissuasive sanctions for the protection of workers and workers' organizations against acts of anti-union discrimination and acts of interference.* The Committee had previously noted that the revision of the labour laws, prepared with ILO technical assistance, had already been submitted to tripartite meetings, that the comments of the tripartite body have been received and that the document has just been forwarded to the Law Officers' Department. The Committee asks the Government to keep it informed of any further progress made in the preparation of the final draft document and to provide a copy of the revised legislation as soon as it has been adopted.
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> *Article 4.* With regard to the right to collective bargaining of teachers, the Committee would request the Government to provide information in its future reports on any collective agreements covering teachers that have been concluded.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Singapore (ratification: 1965)

The Committee notes the Government's report.

In its previous comments, the Committee had referred to section 25 of the Industrial Relations Act (IRA) which governs collective agreements with terms more favourable than those provided in Part IV of the Employment Act. The Committee recalls that section 25 subjects employers and trade unions to seek approval from the Minister for Manpower if annual leave and sick leave benefits stipulated in their collective agreement are to be more favourable than that stated in Part IV of the Employment Act.

The Committee notes the Government's statement that in practice, the Minister has not rejected any application to grant better leave benefits under this provision. However, the Government is currently undertaking a review of other provisions of the IRA and the removal of section 25 would be taken up together with amendments to other provisions of the IRA.

The Committee once again trusts that the Government will take appropriate steps to repeal section 25 of the IRA in the near future so as to ensure that the right to bargain collectively is fully recognized in newly established enterprises. It requests the Government to keep it informed of any measures taken in this regard.

Sri Lanka (ratification: 1972)

The Committee notes the Government's report. It also notes the comments made by the Lanka Jathika Estate Workers' Union and the Employers' Federation of Ceylon (EFC).

Articles 1 and 2 of the Convention. In its previous comments, the Committee had requested the Government to ensure that the draft bill on employment and industrial relations ensured the full protection of workers against acts of anti-union discrimination, and of workers' organizations against acts of interference by employers and their organizations, accompanied by effective and sufficiently dissuasive sanctions. The Committee notes with satisfaction that by virtue of section 32A of the Industrial Disputes Amendment Act, No. 56 of 1999, workers are protected against acts of anti-union discrimination in taking up employment and in the course of employment. The Committee also notes that section 32A(e) of the Act prohibits employers from interfering in the activities of a trade union. Furthermore, under section 40(1)(1A) of the Act, any person who commits an act of anti-union discrimination or an act of interference may be imposed a fine of up to 20,000 rupees.

Regarding collective bargaining in the free trade zones, the Committee had previously noted the Government's indication to the effect that collective agreements had been signed between the members of the employees' councils in enterprises and the management but that these agreements had not been registered with the Department of Labour. The Committee once again requests the Government to provide more detailed and concrete information in this respect.

Sudan (ratification: 1957)

The Committee takes note of the Government's report. It also notes the communication of 14 January 2001 from the Sudan Workers' (Legitimate) Trade Union's Federation. In this regard, the Committee requests the Government to send its observations on the matters raised in this communication.

Articles 1 and 2 of the Convention. In its previous comments, the Committee had noted the Government's indication that the tripartite committee established to revise the Trade Union Act of 1992 had drawn up a draft Act which took account of the Committee's observations which had been submitted to the Attorney-General. The Committee had expressed the firm hope that the draft would strengthen the protection of workers and trade union organizations, through rapid, effective procedures and sufficiently dissuasive sanctions, against anti-union discrimination and acts of interference, and had asked the Government to keep it informed in this respect. The Committee notes that the Trade Union Act of 1992 has been replaced by the Trade Union Act of 2001, a copy of which has been sent to the Committee but not yet received by it. The Committee notes the adoption of the new Act and intends to examine the legislation once it has been received.

In its previous observation, the Committee had noted that the Committee on Freedom of Association, in Case No. 1843, examined in March 1998, had referred to numerous arrests and detentions frequently followed by acts of torture against trade unionists, as well as acts of interference by the Government in trade union activities. The Committee notes that the Government's report does not contain any information in this respect. The Committee deplores this situation and emphasizes that freedom of association cannot be exercised in the absence of respect for human rights. Considering the gravity of the situation apparent in the report of the Committee on Freedom of Association, the Committee asks the Government to take urgent steps to ensure exercise of these rights.

Article 4. The Committee had observed on many occasions that section 6 of the Industrial Relations Act of 1976, and also section 112 of the new Labour Code, allowed referral of a collective dispute or a collective labour dispute to compulsory arbitration. Recalling the importance it accords to the principle of voluntary negotiation set forth in *Article 4*, the Committee again requests the Government to take measures to amend the legislation to bring it into conformity with the provisions of the Convention so that arbitration may only be possible with the agreement of both parties or be compulsory in the case of the essential services, and to keep it informed in this respect.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Swaziland (ratification: 1978)

The Committee notes the Government's report.

The Committee notes the adoption of the Industrial Relations Act, 2000 (the Act). The Committee also notes the ILO technical advisory mission to the country (November 2000) during which preliminary draft amendments to the Act were prepared with the authorities.

In its previous comments, the Committee referred to the need to adopt a specific provision accompanied by sufficiently effective and dissuasive sanctions for the protection of workers' organizations against acts of interference by employers or their organizations as required pursuant to *Article 2 of the Convention*. The Committee notes, however, that the Act contains no such provision. The Committee, therefore, recalls the need to adopt a specific provision accompanied by sufficiently effective and dissuasive sanctions for the protection of workers' organizations against acts of interference by employers or their organizations.

The Committee also notes that the Act sets up a system of works councils (section 52) which only the employer is entitled to establish; there is also no provision setting out the manner in which the representatives of the works council are to be appointed, and the works councils may negotiate terms and conditions of employees who are not members of a trade union. In the view of the Committee, such a system may give rise to employer interference and undermine the role of representative trade unions, and does not promote collective bargaining with workers' organizations as envisaged in *Article 4* of the Convention. The Committee notes that a preliminary draft amendment of section 52 was prepared within the framework of the technical advisory mission. The Government is requested to take measures to ensure that there is sufficient protection against employer interference in the creation and functioning of works councils as well as against collective bargaining with non-unionized workers where there is a sufficiently representative trade union.

The Committee notes further that the Act provides for mandatory recognition where the trade union seeking recognition has as members over 50 per cent of the employees of the unit concerned, and provides for recognition at the discretion of the employer where the union has less than 50 per cent (section 42). The Committee recalls its previous comments in this regard, that if no union covers more than 50 per cent of the workers, collective bargaining rights should be granted to the unions in the unit, at least on behalf of their own members.

The Committee hopes that the legislation will be brought into full conformity with the requirements of the Convention in the near future.

The Committee notes the comments on the application of the Convention submitted by the Federation of Swaziland Employers and asks the Government to send its observation thereon.

Syrian Arab Republic (ratification: 1957)

The Committee takes note of the Government's report.

In the comments it has been making for several years, the Committee noted that section 98 of the Syrian Labour Code, 1959, allowed the authorities to refuse approval of a collective agreement or to quash any clause liable to harm the country's economic interests, and asked the Government to amend this section.

The Committee notes with satisfaction the adoption of Act No. 24 of 10 December 2000, section 1 of which repeals the provision in question.

United Republic of Tanzania (ratification: 1962)

The Committee notes the Government's report.

In its previous comments, the Committee had requested the Government to take measures to amend sections 22(e)(i), (v), (vii) and (ix), 23(3)(c) and 39(7)(c) of the Permanent Labour Tribunal Act, No. 41 of 1967, which empower the court to refuse to register a collective agreement if the agreement is not in conformity with the Government's economic policy. The Committee had recalled that provisions requiring prior approval of a collective agreement for it to enter into force are only compatible with the Convention provided they merely stipulate that approval may be refused if the collective agreement has a procedural flaw or does not conform to the minimum standards laid down by general labour legislation.

In its latest report, the Government indicates that it has launched a labour law reform project. The Committee requests the Government once again to take measures to amend the legislation accordingly and to keep it informed of any developments in this regard.

Trinidad and Tobago (ratification: 1963)

The Committee notes the Government's report.

1. *Absence of objective and pre-established criteria for determining the most representative association.* The Committee had previously noted that, giving effect to its comments, section 26 of the Prison Service Act had been amended and it had requested a copy of the corresponding text. The Committee repeats this request. Furthermore, on the same question of the absence of criteria, the Committee had requested the amendment of section 24(3) of the Civil Service Act and the Government had indicated that the

corresponding amendment was being prepared. The Committee notes that the Government reiterates its previous statements and requests it to provide copies of the amended texts as soon as they have been adopted.

2. *Need to amend section 34 of the Industrial Relations Act, Chapter 88:01, in order to allow a union whose members constitute the largest number of workers in a bargaining unit, even if it is unable to reach a membership of 50 per cent of the workers in that bargaining unit, to negotiate collectively employment conditions.* The Committee notes the Government's statement to the effect that the tripartite committee established to amend the Industrial Relations Act considered that this provision should not be amended based on the belief that multiple bargaining agents would create industrial conflict in view of the culture of the country. No recommendation has therefore been made to change the existing law in this regard. In this respect, the Committee emphasizes that, where there is a single trade union in a bargaining unit with less than the absolute majority, this type of conflict cannot arise, and where various minority unions exist, their joint participation in the bargaining process could be arranged in an equitable manner or it could be envisaged that collective agreements apply only to the members of the respective trade union. The Committee recalls once again that the requirement that a union obtain the support of an absolute majority of the workers in the bargaining unit to be granted bargaining rights means that there is a risk in practice in many cases that workers will be deprived of the benefits of collective bargaining. The Committee therefore requests the Government to take the necessary measures to ensure that this provision is amended so that, where no union represents an absolute majority of workers, the union which represents a relative majority of workers in the bargaining unit can carry out negotiations to conclude a collective agreement, at least on behalf of its own members. The Committee requests the Government to keep it informed of developments in this respect.

3. *Collective bargaining in the Central Bank.* The Committee had noted previously that in May 2000 the General Workers' Trade Union was granted recognition as a bargaining agent and it had requested the Government to provide information concerning the negotiations held and any collective agreement concluded. The Government indicates that this category of workers has the right to engage in collective bargaining. The Committee requests the Government to inform it of any collective agreement that has been concluded.

Turkey (ratification: 1952)

The Committee notes the Government's report. It also notes the comments made by the Confederation of Turkish Trade Unions, the Confederation of Progressive Trade Unions of Turkey and the Turkish Confederation of Employers' Associations (the comments of the latter two are being translated).

Articles 1 and 3 of the Convention. In its previous observations, the Committee had requested the Government to keep it informed of any progress made in the adoption of new legislation regarding the protection of workers against anti-union discrimination. The Government indicates in its report that a new draft Bill has been prepared by a commission of experts appointed by the social partners and the Minister of Labour. Furthermore, the Government indicates that the draft Bill amending Labour Act No. 1475 and Trade Unions Act No. 2821 has been submitted to the Council of

Ministers. The Committee requests the Government to provide a copy of the draft Bill, in order to ensure its conformity with the requirements of the Convention.

Article 4. In its previous comments, the Committee had noted that the Government had initiated work to amend Acts Nos. 2821 and 2822, and that it had proposed to lift the 10 per cent membership requirement in a given branch of activity for collective bargaining purposes. The Government indicates in its report that the work on the draft Bills amending these Acts has not been finalized due to continuing consultations with social partners in order to reach a consensus on the question of dual criteria contained in legislation for determining the representative status of trade unions for collective bargaining purposes. The Government also indicates that these amendments are specified in the National Programme as having medium-term priority. The Committee expresses the firm hope that the Government will take the necessary measures to ensure the conformity of the draft Bills with the requirements of the Convention and once again requests the Government to provide a copy of the draft Bills amending Acts Nos. 2821 and 2822, as soon as they have been elaborated.

In its previous comments, the Committee had also requested the Government to take the necessary measures to ensure that all workers in export processing zones (EPZs) would enjoy the right to negotiate freely their terms and conditions of employment. In its report, the Government indicates that, regarding the issue of compulsory arbitration in EPZs, the proposed amendment in this regard has yet to be enacted and refers the Committee to previous information supplied by the Government representative during the 88th Session of the Conference Committee on the Application of Standards. The Committee recalls that the imposition of compulsory arbitration (as stipulated in article 1 of Act No. 3218) runs contrary to the principle of the voluntary nature of negotiations established in *Article 4*. It therefore urges the Government to amend its legislation to the effect that all workers in all EPZs enjoy the right to negotiate freely their terms and conditions of employment.

In previous comments, the Committee had also requested the Government to provide information regarding the draft Bill on public servants' trade unions, and expressed the firm hope that the draft Bill would grant collective bargaining rights to public servants with the sole exception of those engaged in the administration of the State. The Committee notes the adoption of the Public Employees' Trade Unions Act No. 4688, and proposes to examine its conformity with the provisions of the Convention at its next meeting.

Uganda (ratification: 1963)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the conclusions of the Committee on Freedom of Association in Case No. 1996 (see 316th Report of the Committee, paragraphs 642-699, approved by the Governing Body at its June 1999 session).
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> *Article 4 of the Convention. Promotion of collective bargaining.* The Committee notes that section 8(3) of the Trade Union Decree of 1976 contains the requirement that there be a minimum number of 1,000 members to form a trade union and that section 19(1)(e) of the same law grants exclusive bargaining rights to a union only when it represents 51 per cent of the employees concerned. The Committee considers that such

provisions do not promote collective bargaining within the meaning of *Article 4* since this dual requirement may deprive workers, in smaller bargaining units or who are dispersed over wide geographical areas, of being able to exercise collective bargaining rights, and in particular where no trade union represents an absolute majority of the workers concerned.

The Committee considers that where no union covers more than 50 per cent of the workers, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their own members (see 1994 General Survey on freedom of association and collective bargaining, paragraph 241). The Committee observes in this regard that the Committee on Freedom of Association noted:

> … the Government's recognition that these provisions are not compatible with the new Ugandan Constitution of 1995 and that steps to address this problem are being undertaken within the framework of the labour law reform process currently taking place in the country … (see Case No. 1996, op. cit., paragraph 664).

The Committee further notes the Government's statement that the Trade Union Decree No. 20 of 1976 is being revised to enhance the application of the Convention and that the revised legislation is still in the form of a draft Bill. The Committee trusts that this draft Bill will amend sections 8(3) and 19(1)(e) of the Trade Unions Decree with a view to promoting collective bargaining. It requests the Government to keep it informed of any progress made in the adoption of this Bill and to send a copy thereof as soon as it is adopted.

Exclusion of the prison services from the application of the Trade Union Decree. The Committee had noted in its previous comments under Convention No. 154 that the Trade Union Law (Miscellaneous Amendments) Statute of 31 January 1993, which amended Trade Union Decree No. 20 of 1976, enlarged the category of employees eligible for membership in trade unions, particularly in the public service (including the teaching service) and the employees of the Bank of Uganda. The Committee had noted, however, that other categories as well as the prison services were excluded from membership of trade unions by section 3 and Annex 2 of the above Act. The Committee therefore asks the Government to ensure that the guarantees laid down in the Convention are implemented for these categories, which are excluded from the scope of Decree No. 20 of 1976 as amended by the 1993 Act, and to keep it informed of any measure taken in this regard.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

United Kingdom (ratification: 1950)

The Committee notes the information supplied by the Government in its report. The Committee also notes the comments of UNISON and the Trades Union Congress (TUC) dated 13 November 2000 and 14 November 2001, respectively, and would request the Government to provide its observations thereon.

Articles 1(2)(b) and 4 of the Convention. In its previous comments, the Committee had raised concerns with respect to insufficient protection for workers against anti-union discrimination, with such lack of protection having harmful implications concerning the promotion of collective bargaining. The Committee had in particular requested the Government to review and further amend section 146 of the Trade Union and Labour Relations (Consolidation) Act, 1992 (TULRA), and section 13 of the Trade Union Reform and Employment Rights Act, 1993 (TURER) (amending section 148 of TULRA).

The Committee had previously noted with interest that section 146(1)(a) of the TULRA had been amended by virtue of the Employment Relations Act, 1999, thus making it unlawful to subject an employee to detriment short of dismissal by omission, and not only in cases of a positive action, due to trade union membership or activities. The Committee notes the Government's statement that prior to this amendment, discrimination by omission on the grounds of trade union membership was not prohibited. The Committee notes, however, that the amendment does not address the judicial interpretation whereby the protection of discrimination on the basis of trade union membership under section 146(1)(a) was found not to include protection for making use of the essential services of the union (e.g. collective bargaining). The Committee therefore once again requests the Government to indicate in its next report any steps taken to review and further amend section 146 of TULRA.

With respect to TURER, section 13, the Committee had previously noted that this provision provided for protection against action short of dismissal on grounds related to union membership or activities. The Committee had noted, however, that the provision allowed an employer wilfully to discriminate on anti-union grounds, as long as another purpose was to further a change in the relationship with all or any class of employees and had considered that such a provision could be considered as tantamount to condoning anti-union discrimination. The Government indicates that it is of the opinion that, in the United Kingdom's long standing "voluntarist" system of industrial relations, employers should be free to seek to change their bargaining arrangements and the law allows them to do so. The Government adds that section 17 of the Employment Relations Act contains provisions to deal with situations where employers coerce workers to opt out of agreements and provides protection against dismissal or detriment where workers refuse to opt out of a collective agreement which applies to them. In this respect, first of all, the Committee would recall that the Government has an obligation under the Convention to provide for protection against anti-union discrimination and to promote collective bargaining; however, current legislation allows employers to offer financial inducements to employees to sign personal contracts even though they may be performing identical work as those who refuse to sign, thereby discriminating against the latter. Moreover, while the Employment Relations Act states that the Secretary of State *may* make regulations concerning cases where a worker is subjected to detriment by the employer or dismissed on the grounds that the worker refuses to enter into a contract that includes terms which differ from the terms of a collective agreement which apply to that worker, the Committee notes the Government's statement that no date for introducing such regulations has been set. In these circumstances, the Committee once again requests the Government to take steps to review and amend TURER, section 13.

The Committee is also addressing a request directly to the Government.

Uruguay (ratification: 1954)

The Committee notes the Government's report. The Committee recalls that in its previous observation it noted the comments of the Workers' National Congress of Uruguay (PIT-CNT) on the application of the Convention.

Articles 1 and 3 of the Convention. The PIT-CNT indicates that dismissals for trade union reasons are common in Uruguay and emphasizes the lack of effective procedures for the reinstatement of trade union leaders and workers dismissed because of their trade union membership or activities, or for endeavouring to establish trade union organizations. The PIT-CNT also indicates that rapid and effective machinery has not been established to protect workers' organizations and workers in the exercise of lawful trade union activities.

In this respect, the Government states that Uruguay has complied with the obligations deriving from the Convention and that reinstatement has not been applied as a sanction in the event of anti-union dismissals due to the absence of legal standards requiring such a measure. The Government adds that the prohibition of dismissal does not necessarily imply that the latter is null and void. Dismissal makes the employer liable to sanctions which, in the case of anti-union dismissals, are supplemented with a view to discouraging such dismissals and providing better protection to workers who are in a more delicate situation. The Government also indicates that practical factors prevent reinstatement, especially in the case of Uruguayan enterprises, which are generally small. The Government had indicated that in 1999 only one denunciation was received for anti-union acts, which was dismissed.

The Committee notes these statements and requests the Government to provide more particulars on the average time which elapses between the initiation of the investigation of denunciations of anti-union discrimination and the imposition of sanctions, or the closure of the case.

Article 4. The PIT-CNT states that collective bargaining is currently impossible in major sectors in Uruguay. Instead of real collective agreements, the practice has become generalized among some employers of requiring all the workers to sign giving their consent at the end of a document establishing conditions of work.

The PIT-CNT adds that, as from 1992, the tripartite councils established by the executive authorities to approve agreements negotiated by employers and workers to make them compulsory for the whole sector are no longer convened, rendering it impossible to conclude collective agreements at the sectoral level. Negotiation has only been possible since then at the enterprise level. Finally, the PIT-CNT states that in Uruguay public servants and teaching staff do not have the right to collective bargaining.

In this regard, the Government indicates that there are no legal restrictions of any type on collective bargaining. Concerning the failure to convene the tripartite councils, it recognizes that as from the establishment of democracy a system had been introduced for the negotiation of wages every four months, but that this was a transitional stage in the promotion of collective bargaining rendered necessary by the period of time for which it had not existed. Nevertheless, with the re-establishment of individual and collective freedoms, it was understood that this stage had been completed. In its view, this does not imply that the right to collective bargaining is restricted. Finally, with regard to collective bargaining in the public sector, the Government indicates that not only is it not prohibited, but that it exists in practice.

The Committee notes this information and requests the Government to provide information on the number of collective agreements concluded by enterprise and by sector, including the public sector, with an indication of the sectors and numbers of workers covered.

Venezuela (ratification: 1968)

The Committee notes the Government's report and the conclusions of the Committee on Freedom of Association in Case No. 2067 (324th, 325th and 326th Reports).

Articles 1, 2 and 3 of the Convention. The Committee recalls that in its previous observation it requested the Government to take measures to ensure that the sanctions against anti-union discrimination and interference (sections 637 and 639 of the Fundamental Labour Act (LOT) which limit fines to two months' minimum wages) are not merely symbolic, but are sufficiently dissuasive and effective. The Committee notes the information provided by the Government that a Bill has been prepared (to amend section 187 of the Procedural Labour Act) to adjust the rates of fines, based on tariff blocks, with a view to ensuring that such financial sanctions are sufficiently dissuasive and effective. The Committee hopes that the above Bill will be adopted in the near future and requests the Government to provide information in this respect in its next report.

Article 4. The Committee recalls that for many years it has been referring to the restrictions on collective bargaining under section 473(2) of the LOT, which provides that to negotiate a collective agreement the trade union concerned must represent the absolute majority of workers in an enterprise. The Committee notes that the Government refers to section 145 of the LOT regulations, under which two or more trade union organizations may act jointly for the purposes of obliging the employer to engage in collective bargaining or to exercise the right to industrial action. While the Government also indicates that in cases in which there have been problems of representivity, in the sense that trade union organizations submitting draft collective agreements do not represent the absolute majority, the Ministry of Labour has encouraged negotiation (the Government cites as an example the case of the negotiation of the collective agreement in the enterprise Petróleos de Venezuela S.A. and that of the employees in the courts), the Committee recalls that the provisions of section 73(2) of the LOT do not promote collective bargaining in the meaning of *Article 4* of the Convention. In these conditions, the Committee once again asks the Government to take measures to amend this provision so that in cases where no union organization represents an absolute majority of workers, minority organizations may jointly negotiate a collective agreement applicable to the enterprise or negotiating unit, or at least conclude a collective agreement on behalf of their members. The Committee requests the Government to provide information in its next report on any measures adopted in this respect.

The Committee also notes that on 30 January 2000 the National Constituent Assembly adopted a decree suspending the process of discussing the collective contract in the enterprise Petróleos de Venezuela S.A. for a period of 180 days in special consideration of the state of national emergency and that the period in question may be prolonged. The Committee considers that having recourse to the suspension of a process of collective bargaining by decree constitutes an act of interference by the authorities in the relations between the social partners, which is a serious violation of the right to collective bargaining. The Committee requests the Government to repeal the decree concerned and to inform it in this respect in its next report.

The Committee recalls that in its previous observation it noted the comments of the World Confederation of Labour (WCL) dated 11 February 1999 raising objections to the Act to reform the judicial authorities and the Act governing careers in the judiciary.

adopted on 26 and 27 August 1998. The Committee notes that the Government has not provided its comments in this respect. The Committee notes that, according to the WCL, a number of the provisions of the above Acts (such as those respecting the increase in the working day, the elimination of the right to annual holidays and the elimination of employment stability) violate the provisions of the collective agreement in force in the sector. The Committee emphasizes in this respect that legislation which modifies collective agreements which are already in force is not in conformity with *Article 4* of the Convention. In these conditions, the Committee requests the Government to ensure that effect is given to the clauses of the collective agreement in question.

Finally, the Committee, in the same way as the Committee on Freedom of Association (see 326th Report, Case No. 2067, paragraph 517(a)), requests the Government to take the necessary measures in order to ensure that the Bill for the protection of trade union guarantees and freedoms and the Bill respecting the democratic rights of workers are withdrawn.

Yemen (ratification: 1969)

The Committee notes the information provided by the Government in its report.

Article 1 of the Convention. In its previous comments, the Committee had noted that the draft Trade Union Act did not include specific provisions accompanied by effective and sufficiently dissuasive sanctions that guaranteed the protection of workers against acts of anti-union discrimination by employers, and had requested the Government to amend the draft Act to ensure such protection. The Government indicates in its report that the draft Trade Union Act has been referred to Parliament. The Committee also notes the Government's statement that prior to the discussion of the Act in Parliament, it shall be discussed by the Labour Force Committee and social partners, at which moment the Committee's observations shall be brought to their attention. The Committee requests the Government to ensure that the reformulated draft Trade Union Act guarantees the protection of workers against all acts of anti-union discrimination by employers.

Article 2. In its previous comments, the Committee had urged the Government to ensure that the draft Trade Union Act contained provisions for rapid appeal procedures, coupled with effective and dissuasive sanctions to protect workers' organizations against acts of interference by employers. In its report, the Government indicates that section 8 of the draft Trade Union Act prohibits direct and indirect interference in the functioning of trade union organizations, and that no person may be coerced into joining or withdrawing from an organization or from exercising their trade union rights. The Government also indicates that section 136(4) of the Labour Code provides that all cases relating to labour matters shall be considered urgent, and that according to section 136(1) of the Labour Code, litigating parties wishing to appeal an award of the Arbitration Committee may submit a petition for an appeal to the Labour Division of the competent Court of Appeal within one month of the notification of the award. Furthermore, the Government indicates that it will make every effort to include the penalties provided for under *Article 2* of the Convention in the draft Trade Union Act during discussions between the Labour Force Committee and social partners. The Committee notes the Government's statement and recalls the need to adopt specific provisions accompanied by sufficiently effective and dissuasive sanctions for the protection of workers' organizations against acts of interference by employers or their organizations. The Committee requests the Government to ensure that the draft Trade Union Act will contain such provisions.

Article 4. (a) In its previous comments, the Committee had requested the Government to further promote collective bargaining and to provide statistics on the number of workers covered by collective agreements in comparison with the total number of workers in the country. The Government indicates in its report that it will try to gather more statistics and will forward them to the Committee. The Committee expresses the firm hope that the Government will provide it with these statistics in the very near future.

(b) In its previous comments, the Committee had also requested the Government to amend sections 32(6) and 34(2) of the Labour Code so that refusal to register a collective agreement would be possible only due to a procedural flaw or because it did not conform to the minimum standards laid down by the labour legislation. The Government indicates in its report that it will endeavour to reformulate the provisions in order to put them in line with the Convention after consultation with social partners. The Committee notes the Government's statement and requests the Government to ensure that sections 32(6) and 34(2) of the Labour Code are amended so that refusal to register a collective agreement is only possible due to a procedural flaw or because it does not conform to the minimum standards laid down by the labour legislation.

The Committee requests the Government to keep it informed of developments regarding all the abovementioned points.

Zimbabwe (ratification: 1998)

The Committee notes that the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous comments, which read as follows:

> 1. *Article 2 of the Convention*. The Committee notes that, according to the Government, protection of workers' and employers' organizations against acts of interference is covered by sections 7, 8 and 9 of the Labour Relations Act. However, the Committee observes that these three sections do not ensure comprehensive and specific protection against acts of interference. Nevertheless, section 10(1) of the Act provides that "the Minister may, after consultation with the Board, from time to time, prescribe by statutory instruments acts or omissions which constitute unfair labour practices, whether by employers, employees, workers committees or trade unions or otherwise and may from time to time vary, amend or repeal such notice". The Committee invites the Government, if it has not yet done so, to enact this provision in order to ensure comprehensive and specific protection against acts of interference, as provided in *Article 2*.
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> 2. *Article 4*. The Committee notes that sections 98, 99, 100, 106 and 107 of the Labour Relations Act grant the labour authorities the power to refer disputes in the context of collective bargaining to compulsory arbitration whenever they consider it appropriate. The Committee recalls that compulsory arbitration may only be imposed with respect to public servants engaged in the administration of the State and to those working in an essential service in the strict sense of the term, meaning those services the interruption of which would endanger the life, personal safety or health of the whole or part of the population, and in case of acute national crisis. Therefore, the Committee requests that the

Government take the necessary measures to amend its legislation in order to bring it into conformity with the principles of voluntary collective bargaining.

The Committee notes that section 17(2) of the Labour Relations Act, which provides that regulations made by the Minister prevail over any agreement or arrangement, as well as section 22 of the Act which states that the Minister may, by statutory instrument, fix a maximum wage and the maximum amount that may be payable by way of benefits, allowances, bonuses or increments. The Committee deems these provisions limit the parties' right to collective bargaining and asks the Government to take measures to amend them. These restrictions would only be admissible in exceptional circumstances (see General Survey on freedom of association and collective bargaining, 1994, paragraph 260).

The Committee also notes that, according to sections 25, 79 and 81 of the Labour Relations Act, collective agreements are required to be submitted for ministerial approval in order to ensure that their provisions are not inconsistent with the national laws and the international labour laws and that they are not inequitable to consumers, to members of the public generally or to any other party to the collective bargaining agreement. The Committee recalls that the power of the authorities to approve collective agreements is compatible with the Convention provided that the approval may be refused only if the collective agreement has a procedural flaw or does not conform to the minimum standards laid down by general labour legislation. Therefore, the Committee requests that the Government take the necessary measures to amend its legislation in order to restrict the power of the authorities in accordance with the criteria laid down.

The Committee notes that, according to section 25(1) of the Labour Relations Act, if workers' committees reach an agreement with the employer, it must be approved by the trade union and by more than 50 per cent of the employees. The Committee asks the Government if the same condition of approval by 50 per cent of employees applies to arrangements reached between employers and trade unions.

3. *Article 6.* The Committee notes that the Public Service Act of 1996 provides only for consultation with associations and organizations of public servants regarding the conditions of service of the members of the public service (section 20).

However, the Committee takes note of the Civil Service Joint Negotiating Council, Statutory Instrument 141, 1997, which provides that "there shall be a Public Service Joint Negotiating Council whose objective shall be to engage in mutual consultations upon and negotiate salaries, allowances and conditions of service in the Public Service" (section 3(1)).

The Committee recalls that the right to collective bargaining enshrined in the Convention applies to public servants other than those engaged in the administration of the State. The Committee requests that the Government indicate whether public servants not engaged in the administration of the State negotiate collective agreements as well as participate in consultation discussions.

Finally the Committee notes that the Public Service Act excludes from the application of the Act different groups of workers (section 14). The Committee asks the Government to provide information regarding the right to organize and to collective bargaining of the workers excluded from the Public Service Act and requests a copy of the legislation applicable to them on this matter.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Angola, Argentina, Australia, Bahamas, Barbados, Belarus, Bolivia, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Central African Republic, Chile, China* (Hong Kong Special Administrative Region, Macao Special Administrative Region), *Czech Republic, Ethiopia, Georgia, Guinea-Bissau, Guyana, Israel,* *Kyrgyzstan, Latvia, Lesotho, Lithuania, Madagascar, Mali, Mozambique, Namibia, Nepal, Nicaragua, Nigeria, Romania, Saint Vincent and the Grenadines, Sao Tome and Principe, Seychelles, Slovenia, South Africa, Switzerland, Tajikistan, United Republic of Tanzania, Ukraine, United Kingdom, Zambia.*

Information supplied by *Azerbaijan, Greece, Hungary, Niger, Poland* and *Suriname* in answer to a direct request has been noted by the Committee.

Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951

Comoros (ratification: 1978)

See under Convention No. 26.

Grenada (ratification: 1979)

The Committee notes with regret that despite its repeated requests, no report has been supplied by the Government in the last seven years. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous comment, which read as follows:

> The Committee notes that the text of the draft revision of the labour legislation – which includes provisions on the protection and regulation of wages – has been sent to the Office for comments. The Committee hopes that the revised labour legislation will come into effect in the near future and that the new provisions on fixing of minimum wage rates will apply to agriculture. Please provide a copy of the text as soon as it has been adopted.
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> Moreover, the Committee notes with regret that the Government has provided no information on how the Convention is applied in practice. It trusts that the Government will provide the relevant information, including extracts of inspection reports, copies of certain collective agreements containing wage rates, and statistics of the number of workers covered by the collective agreements.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Djibouti, Seychelles, Sierra Leone.*

Convention No. 100: Equal Remuneration, 1951

Belarus (ratification: 1956)

The Committee notes with interest the adoption on 26 July 1999 of a new Labour Code which entered into force on 1 January 2000. It notes that sections 61 and 66 of the Code define remuneration in accordance with the Convention. It also notes that section 57 of the Labour Code and article 42 of the Constitution set out the principle of equal remuneration for men and women workers for work of equal value and that objective appraisal of the job to be performed is regulated by sections 86, 87 and 88 of the Labour Code. Section 352 of the Labour Code provides for cooperation with the social partners for the purpose of giving effect to the provisions of the Code. The Committee asks the Government to provide information with its next report on the measures undertaken, including promotion and enforcement, to ensure the implementation of these provisions. The Committee notes that the average monthly wage for women in the country as a whole amounted to 85.74 per cent of men's average monthly wage, representing an increase of 4.94 per cent since December 1997, and therefore a small reduction in the wage gap.

Canada (ratification: 1972)

The Committee notes the Government's report and the abundant documentation enclosed.

1. The Committee notes that the thorough reform of the job classification and evaluation system, which the Government has been working on since 1996, is now almost complete and that the new job evaluation tool, the Universal Classification Standard (UCS) 2.0 on which testing began in 1998, should gradually be extended throughout the Canadian public service as from the end of 2000. This new standard has been developed to assist public servants in more efficiently managing the wide variety of jobs performed in the interests of the public, and also to streamline a job evaluation system which dates back more than 30 years.

2. The Committee notes with interest that UCS 2.0 has three fundamental goals: *universality* (the Standard is capable of evaluating the full range of work characteristics within the public service of Canada); *gender neutrality* (the Standard can identify and positively value the characteristics of work done by women and men, including work that has been historically "invisible" or undervalued); and *simplicity* (the design and administration of the Standard can support a straightforward and efficient method of valuing and describing work). To meet these goals the Standard must be capable, for example, of comparing the work of care giving with the work of policy analysis, administration or ship repair. The Standard also conforms to the Canadian Human Rights Act, which stipulates that "[I]n assessing the value of work performed by employees employed in the same establishment, the criterion to be applied is the composite of the skill, effort and responsibility required in the performance of the work and the conditions under which the work is performed." The Standard comprises four factors for measuring the various requirements of a job: *responsibility* (measures responsibility in the work for people, ideas and things); *skill* (measures what employees need to know about, or to be able to do in order to perform the work assigned); *effort* (measures the mental and physical exertion required by the work); and *working conditions* (measures the physical and psychological conditions under which the work is performed and their potential effects on the health of employees). Each of the four factors is subdivided into elements to allow an evaluation of the whole range of jobs carried out in the public service. The Committee is of the view that this is a quantitative method of analysis enabling the relative value of jobs to be determined, and serves as a good example for other States.

3. It therefore asks the Government to provide information on progress made in this respect and would be grateful to receive information on the number of men and women employed in the various posts classified according to UCS 2.0, with an indication of their remuneration – when conversion to the new standard is complete – in order to assess the impact of the new Standard on the reduction of the gender wage gap.

4. The Committee notes with interest that the action brought by the Public Service Alliance of Canada (PSAC) against the Treasury Board in 1991 (further to a complaint originally filed in 1984 with a lower court) ended with an agreement between the two parties on how to calculate the compensation due to the members of the PSAC. The

Committee recalls that on 28 July 1998, the Human Rights Tribunal found that the complainants, government employees in predominantly female occupational groups (secretaries, clerks, hospital workers, librarians, etc.) were not receiving equal pay for work of equal value, and gave the Treasury Board and the PSAC one year in which to work out arrangements for the payment of wage adjustments. The Committee notes that the Treasury Board and the PSAC managed to reach an agreement on 29 October 1999, which the Tribunal endorsed on 16 November 1999, and that, according to the agreement, between 3.3 and 3.6 billion Canadian dollars are to be paid retroactively to approximately 230,000 employees. Payments under this agreement include not only pay equity adjustments but lump-sum payments, interest, maternity benefit, severance pay, invalidity benefit, promotions and overtime, and old-age pension.

The Committee is raising other matters in a request addressed directly to the Government.

Czech Republic (ratification: 1993)

1. Further to its previous comments, the Committee notes with interest that the Labour Code of 1965 was substantially amended in 2000 in order to bring it into conformity with the relevant European Union legislation and the Convention. Section 1 of the Labour Code prohibits discrimination against employees on the ground of sex, inter alia, and establishes that all employers shall ensure equal treatment of all employees as regards their working conditions, including pay and other considerations (emoluments) in cash or kind for their work.

2. The Committee also notes that Act No. 1/1992 on wages, remuneration for stand-by and average earnings, which governed remuneration in all spheres except for wages in "budgetary organizations" (i.e. organizations financed from the state budget), has been amended by Act No. 217/2000. Act No. 217/2000 also amends Act No. 143/1992 on pay, remuneration for stand-by in budgetary and certain other organizations and bodies. The Committee notes that this Act requires the payment of equal remuneration for men and women for work of equal value and that a job classification system will be used for determining the wages based on the same criteria for both men and women. The Committee also notes that the principle of equal pay is extended to all components of remuneration.

3. The Committee notes with interest the classifications provided in the law as to how work of the same or equal value is to be determined, and that the Act sets out the objective criteria to be used to appraise the same or comparable difficulty, responsibility, exertion, working conditions, work capacity and work performance of the employee.

4. The Committee asks the Government to provide information on the implementation of the Labour Code and both Acts regulating remuneration in the public and in the private sectors and on the application of the principle in practice.

The Committee is addressing a direct request to the Government on other relevant points.

Djibouti (ratification: 1978)

The Committee notes with interest that, on 2 December 1998, the Government ratified the United Nations Convention on the Elimination of All Forms of

Discrimination against Women, which requires ratifying States to promote equal remuneration for work of equal value and thus is seen as a recommitment to the implementation of Convention No. 100.

The Committee is raising other points in a request addressed directly to the Government.

Greece (ratification: 1975)

The Committee notes the information in the Government's report and the attached documentation.

The Committee notes the Government's reply to its previous comment indicating the lack of any need for the Government to study equality of remuneration because remuneration is fixed through the General Collective Labour Agreement as well as sectoral agreements, unequal wages for the same work are formally prohibited, and no discrimination on the ground of sex exists. At the same time the Committee notes that in the second and third periodic reports under the United Nations Convention on the Elimination of All Forms of Discrimination against Women, the Government recognized the existence of a significant earnings gap between men and women in all sectors with reference to the period 1985-93. The Committee also draws the attention of the Government to the concluding observation on these reports (1999) formulated by the United Nations Committee on the Elimination of All Forms of Discrimination against Women, which noted positive trends in the employment situation of women, but also expressed concern about their situation in the formal and informal labour market, highlighting the "continuing pay gap between women and men". Moreover, it has expressed its concern that "many of the new jobs occupied by women provide only low pay and limited career prospects". This Committee has repeatedly emphasized that an analysis of the position and pay of men and women in all job categories within and between the various sectors is required to address the pay gap between men and women, which exists to some extent in all countries (see General Report, 2001, paragraphs 36-50). The Committee asks the Government to take into consideration the possibility for the General Secretariat for Equality to conduct studies on the position of men and women in the labour market, the extent of pay differentials, and the factors which perpetuate pay differentials between men and women in both formal and informal sectors in order to enable appropriate measures to be developed and implemented to promote equal pay for men and women for work of equal value.

The Committee is raising other points in a request addressed directly to the Government.

India (ratification: 1958)

The Committee notes the observations by the National Front of Indian Trade Unions (NFITU) that the principle of equal remuneration for men and women workers for work of equal value is not respected in the informal and unorganized sectors, particularly in stone quarries, stone crushing and agriculture. The NFITU claims that this is due to the monitoring system not functioning and adds that the machinery for supervising the implementation of the Convention needs to be improved. The NFITU further points out that collective bargaining sometimes helps in eliminating violations of the Convention. The Committee asks the Government to provide information with its next report on these points and measures taken to ensure the implementation of the Convention.

The Committee is addressing a request directly to the Government in respect of other matters.

Japan (ratification: 1967)

1. The Committee recalls its previous observation in which it examined information contained in the Government's report in response to an earlier observation regarding the communications from the Japanese National Hospital Workers' Union (JNHWU), concerning "wage-based" contract staff and alleging discrimination based on the type of their contract in contravention of the Convention. The Committee notes a further communication of JNHWU of 22 August 2001, as well as a communication of the JNHWU's Tokyo District Council of 16 August 2001 regarding the same matter, which have been transmitted to the Government for any comments it may wish to make. Noting the information from the Government that it intends to submit its comments on these communications together with its next report on the application of the Convention, the Committee has decided to take up this matter at its next session.

2. The Committee, in its previous observation, also noted receipt of observations of the Japanese Trade Union Confederation (RENGO) concerning the application of the Convention to part-time workers, which had been forwarded to the Government for comment. The Committee notes the communication of 3 July 2001 from the Community Union's National Network, the Edogawa Union, the Nagoya Fureai Union, the Senshu Union, and the Ohdate Labour Union raising issues of a similar nature. Noting that the latter communication has been forwarded to the Government for comments, the Committee has decided to take up this matter, together with any comments the Government may have on both communications, at its next session.

3. The Committee further notes the observations received from the Fukuoka Women's Association Union of 14 October 2001 alleging that the employment conditions of contracted employees at the Fukuoka Women's Association constitute indirect wage discrimination against women contrary to the Convention. It also notes the observations of the Zensekiyu Showa Shell Union, the Shiba Credit Bank Employees' Union, the Tokyo Union, the Women's Labour Union and the Shonai Economic Federation Labour Union of 8 May 2001 alleging the existence of sex-discriminatory wage systems in a number of Japanese enterprises, as well as the observations of 15 November 2001 from the Nomura Securities Labour Union alleging discriminatory treatment of female employees in wages and promotion. These observations have been forwarded to the Government as well, and will be examined by the Committee at its next session together with any comments the Government may wish to make.

Malawi (ratification: 1965)

The Committee notes with interest the adoption on 14 May 2000 of the Employment Act, No. 6 of 2000, which provides in section 6 that employers shall pay employees equal remuneration for work of equal value without any discrimination. Section 3 defines remuneration broadly as the wage or salary and any additional benefits.

allowances or emoluments, in accordance with *Article 1(a) of the Convention*. The Committee also notes that, in the event of an alleged violation of the principle, the burden of proof is placed on the employer (section 6(2)).

The Committee is raising other matters in a request addressed directly to the Government.

Mexico (ratification: 1952)

The Committee notes the information contained in the Government's report. It also notes the comments of the Confederation of Business Chambers of Industry (CONCAMIN).

1. The Committee notes the Government's indication that women's average hourly earnings are significantly lower than those of men in many sectors, although they approach near parity with men's wages in the category of "salaried employees" where, according to the 1997 figures provided in the Government's last report, women earned 98.5 per cent of the average hourly wage earned by men. The Committee further notes from the national employment surveys that, in 1997, 28 per cent received less than one minimum daily salary. The corresponding figures for men were significantly lower, at 13.8 per cent and 18.4 per cent, respectively. The statistics also indicate that three times as many men (2.6 per cent) as women (0.9 per cent) were at the highest wage scale (ten or more minimum daily salaries).

2. In its comments, CONCAMIN states that national legislation, which establishes the right of equal pay for equal work performed under equal conditions of efficiency, is compatible with the Convention. In its view, this legislation satisfies the requirements of the Convention. In respect of the principle of equal remuneration for work of equal value, CONCAMIN indicates that there are no standards in place permitting a determination of the relative value of work.

3. In respect of the above indications and relevant national legislation (article 123 of the Constitution of Mexico and section 86 of the Federal Labour Act), the Committee draws attention to the language of *Article 2(1) of the Convention*, which calls for "the application to all workers of the principle of equal remuneration for men and women workers for work of equal value". Value refers to the worth of the job for purposes of computing remuneration. This broader basis of comparison is intended to reach discrimination which may arise out of the existence of occupational categories and jobs reserved for women and is aimed at eliminating inequality of remuneration in female-dominated sectors, where jobs traditionally considered as "feminine" may be undervalued due to sex stereotyping (see General Survey on equal remuneration, ILO, 1986, paragraphs 19-23). The Committee recalls its previous comments that the national jurisprudence (copies of which were provided by the Government in its previous report) indicates that the legal requirement of equal remuneration does not extend to similar work. In this context, it notes from the report that the Steering Committee of the National Women's Commission of the Department of Administration deems it necessary to continue working on the legislation to promote the principle of equal remuneration for men and women workers for work of equal value. The Committee therefore asks the Government to indicate whether consideration is being given to the possibility of giving legislative expression to the principle expressed in *Article 2*. Moreover, in light of CONCAMIN's communication, the Committee asks the Government to indicate the

manner in which the Government is promoting awareness and understanding of the Convention and seeking cooperation with employers' and workers' organizations to give effect to the principle of equal remuneration for work of equal value.

The Committee is addressing a request directly to the Government on other points.

Morocco (ratification: 1979)

The Committee notes the information supplied by the Government in its report.

1. The Committee notes that its comments concerning the new Labour Code were taken partly into account in the final draft of the Labour Code submitted to Parliament. The Government indicates that the draft Code prohibits wage discrimination between men and women for work of equal value. The Committee hopes that the draft will be amended in order to give full effect to the Convention, including the broader concept of remuneration contained in *Article 1 of the Convention*. The Committee asks the Government to send the text of the Labour Code once it has been adopted by Parliament.

2. The Committee notes that the Government makes no specific reply to the comments made by the Committee in its two previous observations, in which it drew attention to the fact that, although there is no discrimination between men and women in law, in practice women are concentrated in certain jobs in the public administration and account for very few management posts and positions of responsibility. The Committee observes that the report contains no information on the current status of women or on any measures taken in this respect. It hopes that the Government will be in a position to provide information in its future reports on efforts made to improve women's status in the labour market, including their access to better paid jobs, both in the public sector and in the private sector. The Committee notes that the tripartite agreement signed on 23 April 2000, which has several social and economic aspects including wages, provides for the formulation of programmes to eradicate occupational illiteracy among men and women workers. Noting that the agreement makes no reference to equality between men and women, the Committee hopes that the issue of equality between men and women workers, particularly in respect of promoting equal remuneration, will be taken into consideration by the joint committee in charge of examining criteria for internal promotion. The Committee notes that the Government has again undertaken to send statistics on wages and working hours of men and women once the results of the survey on the subject are published by the competent authorities.

3. The Committee notes that the Government's report contains no reply to the comments in its previous observation on the measures envisaged for the appraisal of jobs and on the usefulness of a technique allowing the relative value of the tasks performed to be analytically and objectively measured and compared. The Committee again asks the Government to send information on any measures taken relating to use of job evaluation methodologies.

The Committee is raising other points in a request addressed directly to the Government.

New Zealand (ratification: 1983)

The Committee notes the extensive information provided by the Government in its report and attached documentation. It also notes the comments of the New Zealand

Employers' Federation (NZEF) and the New Zealand Council of Trade Unions (NZCTU), as well as the Government's response to those comments.

1. *Legislative framework.* With reference to previous comments concerning the negative impact of the Employment Contracts Act, 1991 (ECA) on the application of the Convention, the Committee notes with interest the repeal of the ECA and its replacement by the Employment Relations Act, 2000 (ERA), which came into effect on 2 October 2000.

2. In its comments, the New Zealand Employers' Federation (NZEF) notes that, for more than 20 years, it has been unlawful in New Zealand to pay individuals differently on the basis of their sex. In the view of the NZEF apparent payment disparities are due to factors other than sex.

3. The New Zealand Congress of Trade Unions (NZCTU) welcomes the enactment of the Employment Relations Act, 2000, noting that the new employment relations framework established by the Act could serve as a foundation for subsequent measures to improve the effective application of the Convention. In this regard, the NZCTU points to the important role that collective bargaining can play in reducing the male-female wage gap. The NZCTU nevertheless indicates its concern that existing legislation has not been effective in promoting equal pay and equal employment opportunities. The NZCTU reiterates that there is no legislation recognizing the concept of equal pay for work of equal value, there is no provision for bringing cross-contractual equal pay complaints and the application of equal pay legislation is limited to situations where employees work for the same employer.

4. With regard to national legislation, the Government indicates that equal remuneration for workers performing the same or similar jobs is required by several Acts which provide a range of overlapping protection against gender-based salary discrimination, including the ERA, the Human Rights Act, 1993 (HRA), and the Equal Pay Act, 1972 (EPA). Referring to its previous comments regarding the scope of the protection against sex-based pay discrimination provided by national legislation, the Committee notes that the ERA retains the "substantially similar" employment requirement reflected in earlier legislation and its definition of employment discrimination appears to be restricted to cases where employees work for the same employer (see ERA, section 104(1)).

5. The Committee again draws the Government's attention to the fact that the principle of equal remuneration within the meaning of *Article 1 of the Convention* refers to equal remuneration for "work of equal value", a reference that goes beyond the concept of the "same" or "similar" work, choosing instead the "value" of the work as the point of comparison. With respect to the scope of comparison, the Committee recalls once again that the reach of the comparison should be as wide as allowed by the level at which wage policies, systems and structures are set. The Committee once again asks the Government to indicate the measures taken to ensure the observance of the Convention and its application in practice, such as the revision of legislation, or the issue of guidelines for use in job evaluations and contract negotiations.

6. *Complaint procedures and enforcement mechanisms.* Referring to its previous comments on the low number of equal pay complaints brought in New Zealand during the reporting period, the Committee notes that no equal pay complaints were heard by the Employment Tribunal or the Employment Court during the reporting period, nor

were any equal pay cases brought under the EPA. The report indicates that 52 complaints of sex discrimination were brought under the HRA, four of which involved complaints of sex-based salary discrimination. In this context, the Committee notes the NZCTU's statements pointing to structural and financial impediments to monitoring compliance with existing legislation. The Committee asks the Government to indicate the measures that have been taken or are contemplated to disseminate information to the public regarding the principle of equal remuneration for work of equal value and to inform the public of the right to bring a complaint of pay discrimination.

7. The Committee notes the activities being carried out by the Labour Inspectorate of the Department of Labour to disseminate employment information to the public. In light of the low number of equal pay complaints, however, it is bound to stress also the importance of effective enforcement mechanisms, including the investigative function of the Labour Inspectorate. It asks the Government to continue to supply information regarding the number of equal pay complaints brought under the national legislation, the action taken and the outcomes, as well as to provide information regarding the activities of the Labour Inspectorate – in addition to information dissemination – to ensure observance of the principle of equal remuneration for work of equal value.

8. *The male-female earnings differential.* The Government indicates that it continues to be fully committed to the principle of equal remuneration for men and women workers, but recognizes that further progress remains to be made in eliminating sex-based pay differentials in the New Zealand labour market. According to the report, recent surveys from Statistics New Zealand show a further reduction in the pay gap between women and men during the reporting period. Figures from the firm-based Quarterly Employment Survey show an increase in the ratio of women's to men's earnings from 82.1 per cent in June 1997 to 83.9 per cent in June 1999. The household-based Household Labour Force Survey Income Supplement shows an increase of 0.16 points in the female-to-male ratio of average hourly earnings, from 0.818 in June 1997 to 0.835 in June 1999. The Government suggests that this shift reflects a longer term and gradual change in the labour market.

9. The Government indicates that a research project analysing the components of the male-female earnings gap is being carried out by the Department of Labour. According to the report, the evidence collected by the project so far indicates that a range of social and economic trends contributed to the reduction of the gender pay gap between 1984 and 1999, including: a narrowing of the male-female gap in educational attainment; a reduction of the male-female gap in terms of work experience; a decrease in the number of employed women responsible for the care of dependent children; convergence in the industrial and occupational composition of male and female employment; and shifts in the relative demand for differently skilled labour.

10. The NZCTU indicates that the statistical evidence contained in the report is insufficient to support the Government's statement that there is a gradual long-term closing of the gender earnings gap. It notes that the 1999 Diversity Index of the EEO Trust does not share the Government's confidence in a closing gender earnings gap, finding instead that the gap has not closed since the previous index. Noting the short-term nature of recorded changes in the gender earnings gap, the NZCTU cautions against concluding prematurely that the gap is closing. Instead, the NZCTU indicates that it would be beneficial to carry out more in-depth research to enable the social partners to

identify those areas of the labour market where work is most needed to ensure effective application of the principle of the Convention. The Committee trusts the Government will take the necessary measures to continue to reduce the remuneration gap between men and women in coordination with the social partners.

Nigeria (ratification: 1974)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. The Committee has observed that, since ratifying the Convention more than 20 years ago, the Government has not furnished information which provides an adequate basis for assessing the application of the Convention. For the most part, the Government's reports have contained the type of broad statement repeated in its latest brief report, indicating that the principle of the Convention is applied and that no contraventions of its practical application have been reported. As concerns the legislative framework, the Government has relied on the narrow formulation of equal pay for equal work, contained in article 17(3)(e) of the Constitution and on the provisions of the National Minimum Wage Act, 1981, which exclude a large section of the workforce from its scope (namely, workers in establishments employing fewer than 50 persons, part-time workers, workers paid on commission or on a piece-rate basis, seasonal workers in agriculture, workers in merchant shipping or civil aviation). While the Government indicated previously that the National Labour Advisory Council was to review the coverage of the Act, no reference has been made to this matter in the Government's present report. Likewise, the Government has not provided sufficient information on the practical application of the Convention.
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> 2. In its latest report, the Government states that sections 10 and 11 of the Wages Boards and Industrial Councils Act, 1990, deal extensively with the Convention. The Committee asks the Government to furnish the legislation and to provide information on its implementation. The Committee has located other recently enacted legislation – the National Salaries and Wages Commission Decree (No. 99 of 1993) – which appears to be of significance to the application of the Convention, as it provides for the establishment of a commission with wide functions, inter alia: to advise the federal Government on national incomes policy; to encourage research on wages structure (including industrial, occupational and regional and any other similar factor, income distribution and household consumption patterns); to establish and run a data bank or other information centre relating to data on wages and prices or any other variable and for that purpose to collaborate with data collection agencies to design and develop an adequate information system; to examine, streamline and recommend salary scales applicable to each post in the public service; and to examine the salary structures in the public and private sectors and recommend a general wages framework with reasonable features which are in consonance with the national economy. The Committee requests the Government to provide information in its next report on the functioning of the Commission, particularly as concerns any progress being made to collect data that would illustrate the extent to which the Convention is being applied in practice. It also hopes that any review of salary structures in the public and private sectors will take account of the requirements of the Convention and asks the Government to indicate any progress made in this regard.
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> 3. Recalling paragraph 253 of its 1986 General Survey on equal remuneration, the Committee observes that it is hard to accept statements suggesting that the application of the Convention has not given rise to difficulties or that full effect is given to it, without further details being provided. It therefore trusts that the Government will reply to the above requests for information with as much detail as possible. The Committee also reminds the

> Government that the Office may be called upon to provide advice and technical assistance concerning the application of the Convention.
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> […]
>
> The Committee is raising other points in a request directly addressing the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Spain (ratification: 1967)

1. The Committee notes the information contained in the report, including the statistical data attached and the Government's comments in response to the comments of the General Union of Workers (UGT) of 27 February 1999, sent to the Government in March 1999. The Committee also notes the comments of the Trade Union Federation of Workers' Commissions (CC.OO.) of 21 September 2001, received jointly with the Government's report.

2. The Committee notes the Government's response to the UGT's earlier comments, which stated that serious and generally hidden sex-based salary discrimination still exists in Spain, and that: (1) the concept of salary in Spanish law diverges from the definition of the term under international law; (2) the definitions of occupational classification often include notions of the value attributed to certain tasks or output bonuses that result in indirect discrimination against women; and (3) the measures adopted to combat discrimination are insufficient.

3. The Committee notes the Government's comments regarding the concept of salary expressed in the Spanish legislation. The Government indicates that this concept is defined in section 26 of the Workers' Statute, which provides that "The concept of salary includes the totality of the economic remuneration received by workers, in cash or in kind, for the performance of work-related services for another and which constitutes compensation for work performed, regardless of the form of the remuneration ...". The Committee considers this definition to be compatible with *Article 1(a) of the Convention.* It would be grateful if the Government would supply samples of collective agreements reflecting the application of section 26 of the Workers' Statute.

4. With respect to the comments that occupational classifications frequently involve concepts of the value attributed to certain tasks or output bonuses that result in indirect discrimination against women, the Government states that occupational classifications are typically contained in collective agreements agreed upon between workers and employers and that, therefore, this is an issue that is difficult for the Labour Inspectorate to address. The Committee asks the Government to provide information on the measures adopted or envisaged to prevent any indirect discrimination that may arise from the classification and evaluation of jobs in collective agreements.

5. With regard to the UGT's comments on the alleged lack of social dialogue and the high rate of temporary work, which the UGT points to as indiciae of hidden employment and salary discrimination, the Government indicates that, through a process of social dialogue, it has adopted a series of measures designed to improve employment stability. It also indicates that part-time work has been regulated, also through the social

dialogue process. The Government states that the high rate of temporary work is steadily decreasing.

6. The Committee notes the adoption of Act No. 39/99 of 5 November 1999, to promote the balancing of workers' professional and family responsibilities, and that similar reforms have been made to the legislation applicable to public servants, both civil and military. While the above information does not bear directly on the principle of equal remuneration, the Committee notes that it is generally relevant to the promotion of equality of opportunity and treatment in the world of work, and thus has an indirect positive effect on the application of the Convention.

The Committee is sending a request directly to the Government on other points.

United Kingdom (ratification: 1971)

The Committee notes the information contained in the Government's report as well as the additional documentation provided. It also notes the comments of the Trades Union Congress (TUC), which had been forwarded to the Government on 30 November 2000 for any reply it may have wished to make.

1. The Committee notes from the statistical information provided by the Government that in 1999 women's average hourly earnings (excluding overtime) amounted to 80.9 per cent of men's earnings in Great Britain, an increase of only 0.9 per cent from 1998, while women's average hourly earnings (excluding overtime) in Northern Ireland increased by 2.6 per cent to 86.9 per cent in 1999 compared with 1998. The Committee further notes from the *Northern Ireland New Earnings Survey, April 1998* and *1999* that, among managers and administrators in Northern Ireland, women workers earned 34.61 per cent less than men in 1998. In comparison, in 1999, women workers earned 34.14 per cent less than men. Among the professional categories women workers earned 13.96 per cent less than men in 1998 but this gap fell to 10.75 per cent in 1999. The Committee requests the Government to continue to provide statistical information in order to enable it to evaluate the implementation of the principle of equal remuneration of men and women workers for work of equal value. It also asks the Government to supply information on any promotional measures taken to narrow the wage gap between men and women workers.

2. The Committee notes the Government's statement that it intends to introduce changes to employment tribunal procedures to simplify and speed up equal pay claims. It notes that the Trades Union Congress (TUC) welcomes the Government's plans to change the tribunal procedures, but that the TUC is of the opinion that these measures will not be enough to address the gender pay gap between men and women workers. The TUC refers to research undertaken by the Equal Opportunities Commission (EOC) which reveals that at the current rate of progress it would take another 20 years to close the gender pay gap. The TUC therefore states that consideration should be given to placing a statutory duty on employers to review pay systems and pay structures and to publish the results, a concept which it has elaborated in its response to the EOC publication *Equality in the 21st Century*. The Committee notes from the information attached to the Government's report that it is proposed to merge the Sex Discrimination Act, 1975, and the Equal Pay Act, 1970. In this respect, the Committee notes the recommendations of the EOC proposing that employers should monitor their workers' rates of pay on an annual basis. The Committee asks the Government to continue to

provide information on any developments in this respect and to supply a copy of the revised legislation when it has been adopted. Please also provide information on any amendments to the tribunal procedures for equal pay claims.

3. The Committee notes the adoption of a statutory minimum wage on 1 January 1999 by means of the National Minimum Wage Act 1998 and the National Minimum Wage Regulations 1999 (amended in 2000). It notes that the Act contains several sections dealing with enforcement and that promotional measures have been taken by the Government, such as publicizing the minimum wage, issuing guides and awareness-raising campaigns. The Committee notes with interest the Government's statement that, through the introduction of the minimum wage, an estimated 1.5 million workers have become entitled to higher pay and that about two-thirds of them are women workers. In this respect, the Committee notes the comments of the TUC that this measure has led to a rise in the incomes of some of the lowest paid workers and to the largest narrowing in a decade of the full-time and part-time gender hourly pay gap. It also notes that the *Low Pay Commission Report* (published on 15 February 2000) states that many enterprises are meeting their obligations to pay the minimum wage and that the Inland Revenue has made a successful start in ensuring enforcement. In addition, the Committee notes that a third report has been commissioned for July 2001 with a view to revising the minimum wage, and asks the Government to provide a copy of it with its next report.

4. With regard to the National Insurance Lower Earnings Limit (LEL), the Committee notes the Government's statement that the introduction of the national minimum wage has no direct implication for the LEL. The Committee notes the introduction of the primary threshold in April 2000 (£76 per week for 2000/01) as the wage level at which national insurance contributions are to be paid. It also notes that the introduction of the minimum wage has resulted in a worker who works just over 18 hours earning more that the LEL and that this measure, combined with the introduction of the primary threshold, results in those workers earning between the LEL and the primary threshold being treated as if they are paying contributions on their earnings to protect their benefit position. The Committee asks the Government to continue to provide information respecting the LEL and the primary threshold and their effects on the application of the principle of equal pay for work of equal value. The Committee notes the statistical information provided by the Government in the *Labour Force Survey, Winter 1999,* which shows that of all part-time workers 83.29 per cent were women, and that of all part-time workers, 54.77 per cent women part-time workers earned £66 per week or less, while 9.5 per cent of male workers earned this level of wages. In this respect, the Committee notes that section 19 of the Employment Relations Act, 1999, provides that regulations shall be issued to ensure that part-time workers are not treated less favourably than persons in full-time employment, and that section 20 envisages that codes of practice may be issued. The Committee understands that regulations have now been brought into force and requests that information be provided on their content and impact. The Committee reiterates the importance of tackling any indirect discrimination against part-time workers, the majority of whom are women.

5. The Committee notes that the Government abolished compulsory competitive tendering (CCT) as from 2 January 2000, which had been criticized by the TUC as having a negative effect on women's wages. It notes that, through the adoption of the Local Government Act, 1999, the principle of "best value" has been implemented for

tendering in the public sector as from 1 April 2000. The Committee also notes the Government's statement that it intends to amend the legislation regarding the selection of tenderers with a view to complying with its obligations as a Member of the European Union, and it therefore requests the Government to provide information with its next report on the manner in which it ensures, when purchasing services, that the principle of equal remuneration for men and women workers for work of equal value is applied. It also requests the Government to supply a copy of the consultation paper issued in April 2000 and a copy of the relevant legislation once it is adopted.

6. The Committee notes the Government's statement that Northern Ireland adopted a Code of Practice on Equal Pay in 1999 and requests the Government to supply with its next report a copy of the Code, which the Government states that it has already provided, but which has not been received by the Office. The Committee recalls the adoption of the Code of Practice on Equal Pay by the Equal Opportunities Commission. It notes the Government's statement that the Code of Practice has so far not been used as evidence in a tribunal and requests the Government to continue to provide information on cases relating to the principle of equal remuneration.

7. The Committee notes the court rulings concerning equal pay attached to the Government's report and requests it to continue to provide information on court cases dealing with equal pay claims.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Argentina, Australia, Austria, Azerbaijan, Bangladesh, Barbados, Belarus, Belgium, Botswana, Brazil, Bulgaria, Burkina Faso, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Djibouti, Dominica, Ecuador, Gabon, Greece, Guatemala, Guyana, Honduras, Hungary, India, Indonesia, Islamic Republic of Iran, Iraq, Ireland, Israel, Jamaica, Jordan, Kyrgyzstan, Latvia, Lebanon, Libyan Arab Jamahiriya, Luxembourg, Malawi, Malaysia, Mali, Malta, Mexico, Mongolia, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Panama, Peru, Poland, Portugal, Russian Federation, Rwanda, San Marino, Sao Tome and Principe, Sierra Leone, Slovakia, Slovenia, Spain, Sudan, Switzerland, Tajikistan, Togo, Tunisia, Turkey, Ukraine, Uruguay, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.*

Convention No. 101: Holidays with Pay (Agriculture), 1952

Sierra Leone (ratification: 1961)

The Committee notes once again with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the declaration in the Government's report that its previous comments would be brought to the attention of the Agricultural Negotiating Trade Group Council so that they might be taken into consideration in the next round of negotiations over terms and conditions of employment. In its previous comments, the Committee referred to section 12(a) of Government Notice No. 888 of 5 December 1980, which permits the deferral of annual leave for a period of up to two years or for longer with the employee's and the union's consent. It recalls that *Article 1 of the Convention* provides that workers

> covered by the Convention should be granted an annual holiday with pay and that, under *Article 8*, any agreement to relinquish the right to annual holiday with pay, or to forgo such a holiday, must be void. The Committee hopes that the necessary measures will be taken in the very near future to bring section 12(a) of Government Notice No. 888 into conformity with the Convention and requests the Government to indicate the progress made in this regard in its next report.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, a request regarding certain points is being addressed directly to *Comoros*.

Convention No. 102: Social Security (Minimum Standards), 1952

Bolivia (ratification: 1977)

The Committee regrets to note that for the third consecutive year the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the Government's report received in June 1998. It notes with regret that the Government has provided no element of reply to the Committee's previous observation.
>
> In this situation, the Committee wishes to express its deep concern that, since the adoption of the Supreme Decree No. 22-578 of 13 August 1990, the Bolivian social security system no longer provides for the payment of family benefit as prescribed by *Article 42, Part VII (Family benefit), of the Convention*. It would like to remind once again that in ratifying Convention No. 102 and freely accepting its obligations in respect of *Part VII*, the Government placed itself under a legally binding international obligation to guarantee in its national law and practice the provision of the family benefit to the persons protected. In the light of the above, the Committee strongly hopes that the Government will not fail to adopt in the near future the necessary measures to re-establish a family benefit scheme conforming to the provisions of the Convention.
>
> The Committee is further concerned with the fact that the Government does not reply to the communication from the World Federation of Trade Unions, a copy of which was sent to it in August 1997 and which called for a factual analysis of the application of Convention No. 102 by the Government of Bolivia in the light of the new Law on Pensions, No. 1732 of 1996. In this respect the Committee notes the further communication of 14 June 1999, transmitted to the Government the same month, by the Central Obrera Boliviana (COB) alleging violation of the basic principles of social security established by Conventions Nos. 102 and 128. The Committee takes up these questions in detail in its comments under the latter Convention and would like the Government to refer to them. It trusts that the Government's next report will contain detailed information on the applicable branches of Convention No. 102 in the light of the social security legislation currently in force in Bolivia, as well as a detailed reply to the observations made in this respect by the abovementioned trade union organizations.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Costa Rica (ratification: 1972)

The Committee notes the letter sent by the Rerum Novarum Confederation of Workers with regard to certain points of the application of the Convention. The letter was communicated to the Government on 22 September 2001. It requests the Government to provide information on this matter.

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> I. The Committee notes the information supplied by the Government in its latest report.
>
> 1. It notes with interest the adoption of the Regulation of 29 June 1995 concerning invalidity, old-age and survivors' insurance. The Committee notes that the Regulation still does not appear to envisage payment, in compliance with *Part V, Article 29, paragraph 2(a), of the Convention*, of a reduced old-age benefit to a person protected who has completed a qualifying period of 15 years of contributions. It requests the Government to indicate the provisions which govern payment of this benefit.
>
> 2. The Committee also notes the Workers' Protection Act adopted on 24 January 2000. It notes that one of the purposes of this Act is to lay down the framework for the establishment of a compulsory supplementary pensions scheme, based on individual capitalization. It requests the Government to supply information on the impact of this Act, in fact and in law, on the relevant parts of the Convention.
>
> II. With reference to its previous comments, the Committee notes that the Government's report does not reply to most of the questions raised. It is therefore bound to reiterate the points raised previously.
>
> 1. The Committee again asks the Government to supply the information required by the report form, *Part VI, Article 65*, of the Convention, so that it can ascertain the real impact of pension increases in relation to the evolution of the general level of earnings or the cost-of-living index. It also asks the Government to supply in each report information on new increases made in this regard.
>
> 2. *Part VI (Employment injury benefit), Articles 34, 36 and 38 of the Convention (in conjunction also with Article 69).* In its previous comments, the Committee requested the Government to take the necessary measures to amend sections 218, 228-232, 237-239 and 243 of Act No. 6727 of 1982 in order to bring them all into full conformity with the abovementioned provisions of the Convention concerning: (a) the nature of medical care, which must correspond to the provisions of *Article 34* of the Convention and be provided free of charge throughout the contingency (namely, until the recovery or the stabilization of the invalidity of the person); and (b) the granting of cash benefits, also throughout the contingency, in the event of a minor or partial *disability or of death.* Under the abovementioned sections of Act No. 6727, such benefits are, in both cases, paid for a period of five or ten years depending on circumstances, whereas the Convention stipulates that they must be provided throughout the victim's life and to dependants for as long as they fulfil the conditions prescribed.
>
> In its previous report, the Government indicated that negotiations were continuing between the National Social Security Institute and the Costa Rican Social Security Fund and that study was continuing on the draft reform of Act No. 6727. The Committee expresses the hope that the Bill in question will be adopted in the near future, with possible technical assistance from the ILO, and that the revision will bring national legislation into full compliance with the Convention.
>
> In addition, the Committee would be grateful if the Government would supply detailed information on the questions raised in a direct request.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Croatia (ratification: 1991)

1. *Part II (Medical care). Article 10 of the Convention (in conjunction with Article 69).* In its previous observations and subsequent to the comments received in March 1995 and April, September and November 1997 from the Union of Autonomous Trade Unions of Croatia (SSSH) the Committee noted that since the entry into force of the Health Insurance Act on 13 August 1993, a large number of workers found their health-care benefits considerably reduced on the basis of section 59. This section, in the 1993 version, provides in particular that when contribution payers fail to pay their insurance contribution access to health protection funded by the Croatian Institute for Health Insurance shall be reduced to the right to emergency medical aid only. The Committee drew the Government's attention to the fact that *Article 69* of the Convention, which enumerates the cases in which benefits provided under the Convention, including medical care, may be suspended, does not refer to the situation of non-payment of contributions on behalf of the insured person. The Committee therefore asked the Government to indicate the measures taken or contemplated to bring its national legislation and practice into compliance with the Convention.

The Committee notes with satisfaction the adoption on 29 January 1999 of a law amending and supplementing the Health Insurance Act, pursuant to the decision of the Constitutional Court on 9 November 1998 to repeal the provisions of section 59(2) and (3) of the Act. This 1999 Act strengthens, inter alia, the supervision of payment of contributions and modifies a number of provisions including section 59 by abolishing in particular provisions concerning the reduction of medical care to the right to emergency medical aid only for cases of non-payment of contributions. While noting that this amendment is liable to permit improved application of the Convention, the Committee nevertheless found no indications, in the Government's latest reports, regarding the effect in practice of the amendments issued by the Act of 29 January 1999 on the problems raised by the Union of Autonomous Trade Unions of Croatia (SSSH). It hopes that the Government's next report will contain detailed information on the application in practice of the amendments to the Health Insurance Act and, in particular, whether the Health Insurance Institute of Croatia has adopted new instructions for regional offices, health centres and doctors.

2. In its previous observation, the Committee examined the matters raised by the Association of Clubs of Military Retirees of the Union of Retirees of Croatia regarding the amount of pensions due to retired personnel of the former Federal Army (JNA) with continuous residence in Croatia. Since then, the Association of Clubs of Military Retirees of the Union of Retirees of Croatia has supplied further information in communications received in May and November 1999 and in October 2000. The Committee notes this supplementary information along with the replies on this matter provided by the Government in December 1998, February, September and December 1999, December 2000 and June 2001. In particular, it notes the pension increases since 1 January 1993 which, according to information supplied by the Government, apply to all pensions paid in Croatia, including those of army pensions of the former Federal Army. The Committee also notes the decision of the Constitutional Court of the

Republic of Croatia on 20 January 1999 putting an end to the procedure of assessment of constitutionality of the provisions of sections 3 and 5 of the Act implementing the rights resulting from pension and invalidity insurance of members of the Former Yugoslav Federal Army.

Peru (ratification: 1961)

The Committee notes the Government's report and observes that it contains very summary information on the points made by the Committee of Experts in its previous observation. The Committee therefore hopes that the Government will supply in its next report detailed information on the application in practice and in law of the health-care scheme and the private pension scheme which entered into force in 1997, for each Article of the Convention, in accordance with the report form.

Health-care scheme

In its previous comments, the Committee asked the Government to supply detailed information on the establishment of the new health scheme following adoption of Act No. 26790 to modernize social security in the area of health and of Supreme Decree No. 009-97-SA, applying this Act, which entered into force in 1997. It therefore asked the Government to supply a detailed report containing information on legislation and practice for each provision of the Convention.

Given the fundamental changes made by the new legislation in the area of health care, the Committee once again expresses the hope that the Government, in its report, will reply to each of the following points raised in the Committee's earlier observation.

Part II (Medical care), Article 10 of the Convention (in conjunction with Article 8). Section 12 of Supreme Decree No. 009-97-SA specifies that curative medical care must include both outpatient and hospital in-patient medical care, medication, prostheses, necessary orthopaedic appliances and rehabilitative services. As regards maternity benefits, they should cover care during pregnancy, confinement and the postnatal period. Under section 9 of Act No. 26790 and sections 11 and 20 of the above Supreme Decree, the benefits provided may not be inferior in scope to the minimum health plan set out in Annex 2 of the Supreme Decree, read in conjunction with Annex 3. Care comes under either simple cover *(capa simple)* or complex cover *(capa compleja)*. Simple cover includes the most frequent and least complex types of medical treatment and is described in Annex 1 of the Supreme Decree. This simple cover is paid for either by the Peruvian Social Security Institute (IPSS) or by enterprises, through their own services or through health-care plans contracted with health-care providers (EPS). Complex cover is provided by the IPSS (section 34 of the Supreme Decree). Moreover section 90 of the Supreme Decree describes how in practice the responsibilities are to be apportioned between the EPS and the IPSS.

In its report, the Government merely indicates that the health benefits provided in the Convention are covered by the health area of social security. In these circumstances, the Committee reiterates its request to the Government to provide detailed information on the implementation of the abovementioned provisions of the Act and of the Supreme Decree so as to allow it better to assess the application in practice of *Article 8* of the Convention, according to which contingencies covered must include *any morbid condition*, and *Article 10* of the Convention, which specifies the nature of medical benefits which must be provided. In this regard, the Committee also hopes that the Government will indicate which provisions govern the domiciliary visits by general medical practitioners provided for in *Article 10, paragraph 1(a)(i)*. Finally, the Committee hopes that the Government will provide with its next report examples of insurance policies concluded with an EPS, and specimens of membership forms.

Part II (Medical care), Article 9, Part III (Sickness benefit), Article 15, and Part VIII (Maternity benefit), Article 48. In its previous comments, the Committee requested the Government to provide detailed information on the geographical coverage of the new health-care system in respect of both the IPSS and of the EPS, and indicate the regions in which the EPS has not yet been established. In its report, the Government indicates that the EPS has regional scope and that there is no statutory limitation or restriction on any region in the country; hence 20 departments of the country are beneficiaries under this system; furthermore, geographical cover of the new ESSALUD scheme is provided by health-care centres comprising 112 hospitals, 42 medical centres, 193 health stations and 31 outpatient clinics. The Committee notes this information. It asks the Government once again to specify the regions in which the EPS have not yet been established. It also asks it to provide a copy of the latest EPS report, along with statistical information on the persons insured and covered in regard to both the ESSALUD and the EPS.

Part XIII (Common provisions) (in conjunction with Parts II, III and VIII), Article 71. In reply to the Committee's previous comments regarding the manner in which the health providers superintendence (SEPS) supervises the activities of the EPS and ensures the proper use of the funds managed by those bodies, the Government indicates that the inspection or supervision system of the SEPS system is characterized by the principles of prevention, permanence, continuity and integrality, and for this purpose Superintendence Decision No. 053-2000-SEPS/CD, was adopted and published on 30 August 2000; this standard approves the general regulations for supervision of the SEPS. The Committee notes this information. The Committee asks the Government to supply a copy of the abovementioned decision and regulations along with detailed information on the manner in which the SEPS exercises this supervision in practice, including copies of inspection reports or other relevant official documents. In this regard, the Committee noted that under section 2 of the Act and sections 2(a) and 3 of the regulations, the IPSS is responsible for administering social security in the field of health care. It would be grateful if the Government would specify in what manner the IPSS carries out this mandate, in particular with regard to the EPS.

In its previous comments, the Committee asked the Government to indicate whether, when the new system of social security in the field of health was established, any actuarial studies were undertaken to establish the financial viability of the participant bodies, in particular the IPSS which will continue to bear responsibility for the longer term and more complex cases of illness. The Government indicates in its report that actuarial studies guarantee the viability of the EPS and ESSALUD; for this it is established that the representative of the organizers of an EPS must submit to the superintendence an economic-financial feasibility study; there is also a requirement for its establishment that a registered capital must be subscribed and paid up and must be updated periodically. The abovementioned requirements make it possible to guarantee that the EPS which come into the system are sufficiently economically sound to supply satisfactory health services. The Committee notes the Government's statement. The

Committee again asks the Government to supply a copy of the studies actually carried out and recalls that such studies appear to be all the more necessary since, according to the new legislation, the enterprises which provide health care through the intermediary of the EPS or through their own services are entitled to a credit from workers' contributions equal in principle to 25 per cent of those contributions (sections 15 and 16 of the Act). The Committee reiterates its request that the Government will provide information on the manner in which the controlling authority will supervise the implementation in practice of the minimum health-care plans, both with regard to the EPS and to employers' own health-care services.

Article 72. In reply to previous comments of the Committee, the Government indicates that the participation of protected persons is not obligatory in the case of the SEPS since it is a decentralized public body in the health sector whose function is to authorize, regulate and supervise the operation of the EPS and ensure the correct use of the funds administered. The Committee notes this information. It again asks the Government to supply detailed information on the participation of protected persons in the administration of the system, particularly in the EPS and employers' health-care services. It also asks the Government to supply copies of official communication No. 230-2000-SEPS/IG of 15 September 2000 and letter No. 4231-GCAJ-ESSALUD-2000 of 15 December 2000, communicated by the SEPS and ESSALUD respectively.

Pensions scheme

The Committee notes that the Government's report does not reply to any of the questions raised in the Committee's previous comments in regard to the private pensions system. It must therefore reiterate the points raised previously.

I. Private pensions system

The Committee takes note of the Government's reports. It also notes the adoption of Supreme Decree No. 054-97-EF of 13 May 1997 approving the single ordained text of the Act respecting the private system of administration of pension funds. In its report the Government reiterates that the private pensions system cannot be examined within the scope of Convention No. 102. The Government refers to the conclusions of the Conference Committee on the Application of Standards, which in June 1997 agreed that the coexistence within the social security system of both a public and a private scheme, as has been the case in Peru since 1992, is not in itself incompatible with the Convention, since the Convention allows the minimum level of social security to be maintained through various methods. The Government also draws attention to the flexibility of Convention No. 102, which allows various approaches to attaining the same level of social security in order to take into account the wide range of national solutions and the rapid and constant developments in systems of protection. The Government points out that the national pensions system and the private pensions system were designed to coexist.

The Government indicates that workers entering the Peruvian labour market for the first time have, in principle, the option of joining one or other of the systems. However, the Committee notes that, in the event a worker who has not subscribed to the private pensions system starts work, the employer is obliged to sign him up with the Pension Fund Administrator (AFP) of his choice, unless the worker indicates in writing within ten days that he wishes to join or remain in the National Pensions System (section 6(2) of Supreme Decree No. 054-97-EF). The Committee once again recalls that workers registered with an AFP can no longer rejoin the system administered by the Insurance Standardization Office (ONP). The Committee therefore considers that, in practice, the private pensions system which coexists with the public system may eventually replace it.

The Committee agrees that Convention No. 102 was conceived in a highly flexible manner and that it is possible to achieve the same level of social security through different approaches, the Conference having deliberately refused to adopt a rigid terminology. Nevertheless, the Convention embodies certain principles of general applicability for the organization and functioning of social security systems (*Articles 71 and 72* of the Convention). In order to allow it to assess how effect is given to these principles and to other provisions of the Convention, the Committee again urges the Government to indicate in its next report how the questions set out below, which have been raised for a number of years, have been resolved.

1. *Part V (Old-age benefit), Articles 28 and 29, paragraph 1 (in conjunction with Article 65 or Article 66).* The Committee recalls that the rate of the pensions provided by the private pensions system does not appear to be determined in advance, since it depends on the capital accumulated in individual capitalization accounts, and particularly on the earnings from these accounts. The Committee takes note of the statistical data provided by the Government in September 1998 on the pensions adjustment factor and the monthly average pension per member; these data are not, however, sufficient to allow the Committee to assess the effect given to the Convention. The Committee once again recalls that, under *Article 29, paragraph 1*, read in conjunction with *Articles 28 and 65 or 66*, an average benefit at least equal to 40 per cent of the reference wage has to be secured to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period which may be 30 years of contribution. The Committee would therefore be grateful if the Government would provide statistical data as requested in the report form, such as to allow it to make a full evaluation of the extent to which the old-age benefit, in all cases and irrespective of the type of system selected, attains the level prescribed by the Convention.

The Committee takes note of the seventh and final provision of Supreme Decree No. 054-97-EF which provides that the requirements and conditions such as to allow the private pensions system to guarantee a minimum retirement pension for its members shall be established by a Supreme Decree approved by the Ministry of Economics and Finance. The Committee recalls in this regard that *Article 66* of the Convention can be applied within the framework of a private pensions system provided that the minimum old-age benefits payable to a standard beneficiary with 30 years of contribution are not less than the minimum amount required by the Convention (40 per cent of the wages of an ordinary adult male unskilled labourer within the meaning of paragraphs 4 and 5 of this Article). The Committee would therefore be grateful if the Government in its next report would provide a copy of the Supreme Decree adopted in implementation of the abovementioned final provision of Supreme Decree No. 954-97-EF, as well as statistical information required by the report form.

2. *Article 30.* The Committee again asks the Government to indicate the measures adopted or envisaged to guarantee the full application of this provision of the

Convention (payment of the benefit throughout the contingency) with regard to the "programmed retirement" system, under which monthly withdrawals may be made from the account until the accumulated capital is exhausted, contrary to the above Article. In this regard, the Committee also refers to its comments on the application of Article 4 of the Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35).

3. *Part IX (Invalidity benefit), Article 58.* The Committee again asks the Government to indicate how full effect is given to this provision of the Convention (provision of the benefit throughout the contingency or until an old-age benefit becomes payable) in the event of the permanent total invalidity of a worker who has selected the "programmed retirement" system.

4. *Part XIII (Common provisions), Article 71, paragraph 1.* The Committee notes that the cost of the benefits, certain administrative expenses and certain commissions are paid entirely by the worker who is insured under an AFP. Employers' contributions appear to be of a voluntary nature. According to *Article 71, paragraph 1*, "the cost of the benefits provided ... and the cost of the administration of such benefits should be borne collectively by way of insurance contributions or taxation or both in a manner which avoids hardship to persons of small means and takes into account the economic situation of the member and of the classes of the persons protected". The Committee once again asks the Government to indicate the measures which have been adopted or envisaged to give full effect to the Convention in this respect.

5. *Article 71, paragraph 2.* The Committee again recalls that, under this provision of the Convention, the total of the insurance contributions borne by the employees protected shall not exceed 50 per cent of the total of the financial resources allocated to the protection of employees and their spouses and children. In order to be in a position to assess the effect given to this provision of the Convention, the Committee again asks the Government to provide in its next report the statistics requested in the report form under this Article of the Convention for both the private pensions and health systems and the schemes administered by the public system.

II. System of pensions administered by the ONP

The Committee again draws the Government's attention to the following specific points.

1. *Part V (Old-age benefit), Article 29, paragraph 2(a).* In the report received in September 1998, the Government acknowledges that Peruvian law does not envisage a case of the kind described in this provision. The Committee recalls that *Article 29, paragraph 2(a)*, provides that, where the old-age benefit is conditional upon a minimum period of contribution, a reduced benefit shall be secured to any insured person who has completed a qualifying period of 15 years of contribution or employment. The Committee again points out that the qualifying period laid down in the legislation is higher than the 15-year period established in the Convention. In these circumstances, the Committee can only ask the Government once again to take the necessary measures to ensure that persons protected are entitled to a reduced benefit after 15 years of contribution, as provided by this provision of the Convention.

2. *Part XI (Calculation of periodical payments), Articles 65 and 66.* The Committee notes the declaration of the Government according to which the maximum amount of the old-age pension paid by the National Pensions System is insufficient and

is not proportionate to the workers' contributions. It also notes that, as of 1 January 1997, contributions to the National Pensions System will be not less than 13 per cent of the total insurable income of each worker. In addition, a National Public Savings Fund has been established, profits from which will be used to pay benefits to pensioners whose total monthly pensions do not exceed 1,000 new soles. The Committee hopes that the Government will be able to go on providing information on the measures taken or envisaged to increase the pensions paid by the National Pensions System so as to reach the level prescribed by the Convention. The Committee further asks the Government to provide all statistics required by the report form under *Articles 65 or 66*, including statistics on the review of long-term benefits to take account of changes in the cost of living. The Committee again recalls the importance that it attaches to the revision of the rates of current periodical payments in the case of long-term benefits, as required by *Article 65, paragraph 10, and Article 66, paragraph 8.*

III. Supervision of the private and public pensions systems

In its report, received in September 1998, the Government indicates that the State assumes overall responsibility for matters relating to the provision of benefits and takes any measures required for this purpose and for ensuring sound administration of institutions and services involved in implementing the Convention. The Committee would be grateful if the Government would indicate the specific measures adopted to apply *Article 71, paragraph 3, and Article 72, paragraph 2*, with regard both to the private and public pensions systems. In this context, the Committee recalls the importance of the regular actuarial studies and calculations required by *Article 71, paragraph 3.*

As regards the private system, the Committee takes note of the fact that, in accordance with section 23 of Supreme Decree No. 054-97-EF, investments made by the AFP are required to generate a certain minimum level of profits. Moreover the Government is responsible for determining criteria of minimum profitability (guaranteed by the statutory reserve formed from the AFP's own funds and other sources). The Committee would be grateful if the Government would also indicate in its next report all the measures taken to ensure the minimum level of profits generated by the AFP for its members and provide a copy of the Supreme Decree approved by the Minister of Economics and Finance.

IV. Participation of persons protected in the administration of the system

1. The Committee again asks the Government to indicate the measures which have been taken or are envisaged, in the context of the private pensions system, to give effect to *Article 72, paragraph 1*, of the Convention, according to which, where the administration is not entrusted to an institution regulated by the public authorities or to a government department responsible to the legislature, representatives of the persons protected shall participate in or be associated with the management, in a consultative capacity, under prescribed conditions. In this context, the Committee refers to information supplied by the Government in its report on the application of Convention No. 35, and trusts that the Government will indicate any new measures taken to allow the participation by the persons protected in the administration of the private pensions system.

2. The Committee asks the Government to indicate the manner in which representatives of the persons protected participate in the management of the pensions system administered by the ONP, and in particular whether they are represented on the management bodies of the ONP.

The Committee recalls the observations received from the Association of Retired Oil Industry Workers of the Metropolitan Area of Lima and Callao and notes the Government's statement to the effect that no authority can take up cases that are still before the courts or interfere with the work of the courts. The Committee refers to its previous comments and trusts that the Government will in due course provide copies of any final judicial decisions on cases brought in connection with the observations made by the Association of Retired Oil Industry Workers of the Metropolitan Area of Lima and Callao.

With reference to a communication submitted by the World Federation of Trade Unions, the Committee notes the information supplied by the Government to the effect that a special commission will be entrusted with preparing a report on the situation of savings schemes included in Legislative Decrees No. 1990, 20530 and others under the State. Once this commission has presented its report, the Government will be able to determine the admissibility of the complaint made by the National Central Association of retired workers and pensioners of Peru (CENAJUPE).

While fully aware of the complexity of the issues raised, the Committee trusts that the Government, if it deems appropriate, will seek advice and assistance from the competent services of the Office on the organization and working of the public and private social security systems in the area of health care and pensions. The Committee trusts the Government will redouble its efforts to provide the information requested in the present observation and in its earlier direct request.

[The Government is asked to report in detail in 2002.]

Spain (ratification: 1988)

Further to its previous comments, the Committee notes the detailed information supplied by the Government in its report.

1. *Part III (Sickness benefit), Article 18 (in conjunction with Part XIII (Common provisions)), Articles 71, paragraph 3, and 72, paragraph 2.* In its earlier comments, the Committee noted that, in accordance with Royal Decree No. 5/1992 of 21 July, issuing special budgetary measures, section 131(1) of the General Social Security Act (LGSS) provides that payment of the benefit due in the event of temporary incapacity for work resulting from common illness or a non-occupational accident is the responsibility of the employer from the fourth to the fifteenth day of leave inclusive. It also noted the observations made in this respect on several occasions by the General Union of Workers (UGT), according to which the 1992 reform raises considerable problems because the State no longer assumes direct responsibility for the guarantees laid down in the Convention. This results in conduct and practices which offend against the dignity of workers and, in some cases, involve denial of the benefit due as a result of pressure from the employer. The Committee therefore asked the Government to supply information on the measures taken to ensure fulfilment by the employers of their obligation to pay sickness benefit from the fourth to the fifteenth day of incapacity.

In its reply, the Government indicates that it has introduced new measures for managing benefits due to temporary incapacity for work, and aimed essentially at combating abuses and fraud, through more specific monitoring of the incapacity for work of the person concerned. In particular, the new measures taken by Royal Decree No. 1117 of 5 June 1998 and Royal Decree No. 6 of 23 June 2000, along with the Order of 18 September 1998, authorize physicians registered with the National Social Security Institute and those of the social security occupational accident and occupational diseases mutual schemes to verify the termination of the temporary incapacity for work, which will determine the termination of the entitlement to the corresponding benefit, without prejudice to the right to the medical care that the public health service will continue to supply if this is still necessary. Henceforth, the public health service is no longer solely competent to declare the termination of the temporary incapacity but shares this power with other entities which, in the Government's view, constitutes an important means of supervising protection against temporary incapacity as well as better rationalization and effectiveness in management of the financial benefit.

The Committee notes these new measures which still do not in themselves respond to the fears expressed by the UGT, but fall within the more general framework of combating fraud and abuses.

More particularly in regard to failure by the employers to fulfil their obligations to pay sickness benefits, raised by the UGT, the Government considers that this is a sporadic and occasional occurrence and does not constitute a widespread violation of legislation. It sees proof of this in the fact that the other representative unions which receive copies of the Government's reports have not raised the question. In this context, the Government refers to the agreement for the improvement and development of the social protection system, concluded by the Government and certain social partners in April 2001, which seeks in particular, solutions to ensure that this type of situation remains marginal. The Committee asks the Government to supply a text of this agreement and also to furnish information on the results obtained.

The Committee also recalls that, in a decision handed down on 15 June 1998 the Supreme Court declared that the system of obligations and accompanying guarantees established in respect of direct payment of the benefit for temporary incapacity according to the public social security scheme in the event of the employer's failure to meet the obligation to pay the benefit directly must be maintained, without prejudice to the managing entity's right to reclaim the amount subsequently from the enterprise in question, in exercise of the authority conferred on it as managing entity of the social security system. In this respect, the Committee notes that, according to the information in the Government's report, in the absence of a legal provision or consolidated jurisprudence, as required by Spanish legal order for it to be of general application, the social security management entities assume direct payment of the benefit only when the failure to execute affects the period for which the enterprise must pay the benefit for temporary incapacity by delegation of the social security, that is, from the sixteenth day of incapacity or when, during the initial period of payment covered in section 131(1) of the Social Security Act, the employment is terminated. The Committee recalls that under *Article 71, paragraph 3, of the Convention*, the State must accept general responsibility for the due provision of the sickness benefits and shall take all measures required for this purpose. The Committee asks the Government to indicate any developments in this matter with a view to strengthening the implementation of this provision of the

Convention. The Committee also attaches particular importance to the supervision effected by the labour and social security inspection service and would be grateful if the Government would continue to supply detailed information on the supervision carried out by the inspection service in regard to proper fulfilment by the employer of his obligations under section 131(1) of the LGSS, particularly on the number of inspections conducted, violations reported and penalties imposed. Please supply extracts from all relevant reports.

2. *Part III (Sickness benefit), Article 18, and Part VI (Employment injury benefits), Article 36, paragraph 1, (in conjunction with Part XIII (Common provisions)), Articles 71, paragraph 3, and 72, paragraph 2.* With regard more particularly to the possibility for the employer to assume responsibility for direct payment of cash benefits for temporary incapacity for work, in the framework of the cooperation provided in section 77 of the LGSS, the Committee asked the Government to provide a number of supplementary details and, in particular, statistics. In its reply, the Government confirms that the most recent important measures taken in this matter were introduced by Royal Decree No. 706/1997 of 16 May, the content of which was analysed by the Committee in its previous observation. Furthermore, the Government states that in the framework of voluntary collaboration, the enterprise assumes directly payment of the cash benefit for temporary incapacity of work for workers in its employment without this collaboration being subject to cession, transmission or insurance with another person or entity. The enterprise may, nevertheless, conclude contracts with other entities with a view to ensuring supervision of the benefit; in this case, furthermore, these activities may not be financed through contributions deducted by the enterprise since they must be devoted solely to the purpose of collaboration, namely, payment of the benefit. The enterprise is required to have a special accounting head covering the collaboration activities. The enterprise must communicate to the administration the necessary data for the latter to be fully aware of the measures taken in the framework of collaboration. Violation by the employer of his obligation to pay directly the cash benefits for temporary incapacity constitutes an administrative violation which can be penalized by a fine and by the temporary or definitive suspension of the right to voluntary collaboration. With regard to the workers, failure of the enterprise to fulfil its obligations entails its civil or penal responsibility according to case without the subsidiary responsibility of the social security bodies being involved. Finally, the Government considers that the agreement concluded with certain social partners for the improvement and development of the social welfare system mentioned above should enable a solution to be found for any cases of enterprises failing to fulfil their obligations.

The Committee notes this information with interest. According to the information supplied earlier by the Government, a large number of workers are concerned by the type of collaboration provided in section 77(1) of the LGSS and the Committee therefore hopes that the Government will not fail to continue to supply information and statistics on the number and results of the checks carried out by the Labour and Social Security Inspectorate and the General Social Security Controller, by indicating the number and nature of penalties imposed as well as information on the number of workers concerned and enterprises participating in the forms of voluntary collaboration provided in section 77(1), particularly subparagraphs (a) and (d), as compared with the total number of workers involved in the LGSS in regard to benefits for temporary incapacity. The Committee also asks the Government to continue to communicate information on all measures taken or contemplated in this matter with a view to improving operation of the voluntary collaboration system and, in particular, on any solutions that have been found in the framework of the agreement for improving and developing the social protection system concluded with certain social partners with a view to ensuring payment of benefits for temporary incapacity for work in the event that the system fails to function in practice.

3. *Part VI (Employment injury benefit), Article 34, paragraph 2(c).* In reply to the Committee's comments, the Government recalls that legislation provides for medical care at the home of the patient under the terms of primary medical assistance, care at home for immobilized patients and patients in the terminal phase, primary emergency care at the home of the patient and oxygenotherapy at home (Royal Decree No. 63 of 1995). It adds that medical care is supplied regardless of the origin of the illness or accident, be it common or occupational, from which the patient who needs care at home is suffering. The Committee notes this information. It assumes that this medical assistance includes provision of nursing care at home free of charge in accordance with this provision of the Convention.

Article 34, paragraph 2(e). In its reply the Government first refers to information supplied earlier on the content of medical assistance provided under legislation in the event of occupational accidents and diseases and indicates that, to date, it has adopted no new measures to include specifically dental prosthetic appliances and spectacles, in accordance with this provision of the Convention. The Committee therefore hopes that in its next report the Government will be able to indicate the measures taken or envisaged to give effect in particular to *Article 34, paragraph 2(e)*, on this point.

4. Finally, the Committee asks the Government once again to supply its comments in reply to the observations made by the UGT on 27 February 1999 concerning *Part II (Medical care)* of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: *Barbados, Costa Rica, Croatia, Democratic Republic of the Congo, Denmark, Iceland, Norway, Peru, Slovakia, Slovenia, Spain.*

Information supplied by *Belgium* and *Sweden* in answer to a direct request has been noted by the Committee.

Convention No. 103: Maternity Protection (Revised), 1952

Bolivia (ratification: 1973)

The Committee notes the information supplied by the Government in its report, particularly concerning changes made and in progress in the social security field. In this regard, the Government states that subsequent to adoption of the Act on organization of the executive authorities of 1997, the Ministry of Labour and Small Enterprises no longer has responsibility for maternity insurance. The control and supervision of insurance now come under the Ministry of Health and Social Welfare. The Committee also notes the information supplied by the Government in reply to its previous comments and wishes to draw attention to the following points.

Article 1 of the Convention. In its previous comments, the Committee emphasized the need to take appropriate measures, both in law and in practice, to ensure that women workers at home and women agricultural workers benefit from the protection set out in the Convention. For women agricultural workers, the Government states that Congress has before it a draft supreme decree on the inclusion of wage earners in the agricultural sector under the General Labour Act, with the aim of harmonizing the rights of these workers in the field of social welfare and employment. The Committee notes this information with interest and hopes that the draft decree will be adopted very shortly. It hopes that the Government will not fail to take all the measures necessary to ensure that women agricultural workers and women workers at home all benefit in practice from the maternity protection provided by national legislation (General Labour Act and Social Security Code).

Article 3, paragraph 2. In its previous comments, the Committee noted that section 61 of the General Labour Act and Supreme Decree No. 2291 of 7 December 1950 applicable to women workers in the public administration provide for maternity leave of 60 days whereas, according to this provision of the Convention, the minimum period of maternity leave must be 12 weeks. In its latest report, the Government refers once again to section 31 of Decree No. 13214 of 24 December 1975 reforming the social security scheme which provides for payment of maternity benefits for a maximum duration of 45 days before and 45 days after confinement. According to the Government, this section amends section 61 of the abovementioned General Labour Act and allows effect to be given to this provision of the Convention. The Committee notes this information. Nevertheless, it still considers that in order to avoid any contradiction between the various provisions of legislation applicable, labour legislation (section 61 of the General Labour Act and Supreme Decree No. 2291 concerning women workers in the public administration) should be aligned with social security legislation in order to provide expressly for the right to maternity leave of not less than 12 weeks. The Committee considers amendment of labour legislation all the more necessary since social security legislation does not always apply to all categories of women workers covered by the Convention.

Article 3, paragraph 4. The Committee hopes that the Government's next report will contain information on the measures taken or envisaged to include in the General Labour Act, the Social Security Code and the legislation in respect of public servants and employees a provision allowing for the extension of prenatal leave where confinement takes place later than the presumed date, without any reduction in the minimum postnatal leave period of six weeks prescribed by the Convention.

Article 4, paragraphs 5 and 8. The Committee notes the adoption of Supreme Decree No. 24303 of 24 May 1996 on national insurance in relation to maternity and childhood. This free insurance provides medical benefits to the insured persons before, during and after confinement, as well as to children under the age of 5 years for certain diseases. The Committee requests the Government to supply a copy of this Decree. In regard to cash benefits, the Committee requests the Government to specify the measures taken or contemplated to ensure that women workers who do not fulfil the conditions set out in the Social Security Code or who are not yet covered by this scheme receive cash benefits either out of public funds or through public assistance schemes.

Article 5. In its previous comments, the Committee noted that section 61 of the General Labour Act which contains a provision concerning nursing breaks does not apply to public servants and employees as this category of workers is not covered by the General Labour Act. In its latest report, the Government indicates that section 61 applies both to the private sector and the public sector. In these circumstances, the Committee considers that the Government should not encounter any difficulties to include in the legislation concerning the working conditions of public sector employees a provision expressly laying down the right to nursing breaks. The Committee requests the Government to supply information on any progress made in this respect.

Chile (ratification: 1994)

The Committee notes the comments of the Federation of Postal Workers of Chile denouncing the situation of several women workers who it alleges were dismissed during their maternity leave. These comments were brought to the Government's attention by a communication dated 24 September 2001. The Committee hopes that the Government will provide information in its next report on this matter.

The Committee also requests the Government to refer to the observation that it made in 1997 concerning the application of *Article 4, paragraphs 3 and 5, of the Convention.*

Ghana (ratification: 1986)

1. The Committee notes the information communicated by the Government in its latest report and of the pertinent extracts of certain collective agreements signed in the private sector. Further to its previous comments, the Committee notes that the Government refers once again to the process of codifying the country's labour laws. The codification exercise involves the amendment of several standards and changes in practice. A draft labour bill has already been discussed by a tripartite forum taking into account all the comments made by the Committee of Experts as well as current developments on the international labour front. The outcome of the issue of codification and the harmonization of domestic legislation with international instruments will be communicated in due course. The Committee trusts that the Government will not fail to take all the necessary measures to complete the legislative amendments announced and that, in so doing, the following comments will be borne in mind.

Article 1, paragraph 3(h), of the Convention. The Committee recalls that by virtue of section 74 of the Labour Decree and the definition of the term "worker" given in it, domestic workers are excluded from the maternity protection guaranteed by Part V of the Decree. The Committee draws the Government's attention once again to the need to amend the aforementioned provision of national legislation in order to give women engaged in domestic work for wages in private households the protection guaranteed under the Convention.

Article 3, paragraph 4. The Committee recalls that when confinement takes place after the presumed date, legislation does not specifically provide for extending the prenatal leave until the actual date of confinement.

Article 3, paragraphs 5 and 6. In its previous reports, the Government indicated that in practice any absence certified by a registered physician as resulting from illness caused by pregnancy or confinement is considered as sick leave. The Committee nevertheless stated that the relevant provisions of legislation (General Order of 1951) and collective agreements did not in themselves guarantee in all cases extension of maternity leave in the event of illness arising out of pregnancy or confinement. The Committee therefore hopes that the Government will take the necessary measures in order to introduce a provision in legislation in order to give full effect to *Article 3, paragraphs 5 and 6*, of the Convention.

Article 4, paragraphs 1 and 3. The Committee recalls that there is no provision in national legislation concerning entitlement to medical benefits. It trusts that the Government will take the necessary legislative measures in order to ensure that all women workers covered by the Convention are entitled to medical benefits in accordance with these provisions of the Convention.

Article 4, paragraphs 4 to 8. In reply to the Committee's previous comments, the Government indicates that the matters dealt with by *Article 4, paragraphs 4 to 8*, of the Convention are still under discussion. While being aware of the difficulties encountered by the Government in this regard, the Committee hopes that measures will be adopted giving full effect to these provisions of the Convention which stipulate in particular that cash and medical maternity benefits shall be provided either by means of compulsory social insurance or from public funds, and that in no case shall the employer be held individually liable for the cost of such benefits.

2. *Article 4, paragraph 2.* Further to its previous comments, the Committee notes with interest that the extracts of the three collective agreements supplied by the Government show that during maternity leave women workers covered by these agreements continue to receive their wages in full. It requests the Government to continue to supply copies of any other collective agreements concluded in the private sector which contain provisions in this regard. The Committee also requests the Government to supply a copy of the public service administrative instructions concerning payment of remuneration during maternity leave.

3. The Committee wishes to draw the Government's attention to the possibility of receiving technical assistance from the International Labour Office.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Mongolia, San Marino, Zambia.*

Convention No. 105: Abolition of Forced Labour, 1957

Afghanistan (ratification: 1963)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> *Article 1(a) of the Convention.* In comments made for a number of years, the Committee has noted that prison sentences involving an obligation to perform labour may be imposed under the following provisions of the Penal Code:
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> (a) sections 184(3), 197(1)(a) and 240 concerning, inter alia, the publication and propagation of news, information, false or self-interested statements, biased or inciting propaganda concerning internal affairs of the country which reduces the

prestige and standing of the State, or for the purpose of harming public interest and goods;

(b) sections 221(1), (4) and (5) concerning a person who creates, establishes, organizes or administers an organization under the name of a party, society, union or group with the aim of disturbing and nullifying one of the basic and accepted national values in the political, social, economic or cultural spheres of the State, or makes propaganda for its extension or attraction to it, by whatever means it may be, or who joins such an organization or establishes relations, himself or through someone else with such an organization or one of its branches.

The Committee had noted the Government's earlier indication that the obligation to perform prison labour provided for under section 3 of the Prisons Law covers persons convicted under the abovementioned sections of the Penal Code as well as those convicted of other misdemeanours and crimes; under section 13 of the Prisons Law, those convicted under the abovementioned sections of the Penal Code are kept in custody separately from ordinary prisoners, and are also engaged in different activities to keep themselves physically healthy and to provide themselves with gainful employment for which they are fully paid.

While noting the special status given to prisoners convicted under the abovementioned sections of the Penal Code, the Committee pointed out that the imposition of sanctions involving compulsory labour on these persons remains contrary to the Convention.

The Committee hopes that the penal provisions will be examined in the light of the Convention with a view to ensuring that no sanctions involving forced or compulsory labour may be imposed as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system and that the Government will indicate the measures taken to this end.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Algeria (ratification: 1969)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following points:

Article 1(a) of the Convention. In the comments that it has been making for many years, the Committee has referred to the provisions respecting the right of association which permit the imposition of sentences of imprisonment involving the obligation to work in circumstances which are covered by the scope of the Convention.

The Committee referred to sections 5 and 45 of Act No. 90-31 respecting associations. Under the terms of section 5, an association's legal status is invalidated if its objectives are contrary to the established institutional system, to public order, good morals or the laws and regulations in force. Section 45 provides that any individual who directs, administers or agitates in an association that has not been recognized, or which has been suspended or dissolved, or who facilitates meetings of the members of such an association, shall be liable to a term of imprisonment ranging from three months to two years, including the obligation to work, under the terms of sections 2 and 3 of the Interministerial Order of 26 June 1983.

The Committee has recalled on several occasions that the Convention prohibits the use of any form of forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing certain political views or expressing opposition to the established political, social or economic system.

> It notes the Government's statement that the legislation in force does not distinguish between a political and a civil crime and that the work performed by convicted prisoners under the terms of the Act respecting associations is considered to be corrective action. In its last report, the Government reaffirms that prison work is an activity which forms part of the rehabilitation, training and social promotion of detainees.
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> The Committee observes that the fact of imposing prison labour on persons convicted under Act No. 90-31 with a view to their "rehabilitation" is contrary to the Convention, as it is imposed on persons convicted of having expressed certain political views or manifested their ideological opposition to the established political, social or economic system.
>
> The Committee hopes that the Government will take the necessary measures to ensure compliance with the Convention, either by amending sections 5 and 45 of Act No. 90-31, or by dispensing from prison labour persons who have been convicted for expressing certain political opinions.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Bahamas (ratification: 1976)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

> *Article 1(c) and (d) of the Convention.* In comments made for many years, the Committee has referred to sections 128, 130 and 134 of the 1976 Merchant Shipping Act, under which various breaches of labour discipline are punishable with imprisonment (involving an obligation to work) and deserting seafarers may be forcibly returned on board ship; and sections 72 and 73 of the Industrial Relations Act (*Official Gazette*, Supplement Part I, 10 September 1970, No. 36), under which participation in a strike is punishable with imprisonment, involving an obligation to perform labour. The Committee noted the Government's indication in its report received in 1999 that the abovementioned sections of the Merchant Shipping Act had not been amended. As regards the abovementioned provisions of the Industrial Relations Act, the Government stated that no such provisions had been applied for participation in an industrial action, that 1998 and early 1999 were typical examples of high industrial action activity and no repressive measures have been used against any group of participants. While noting this information, the Committee reiterates its hope that the necessary measures will be taken to amend or repeal the abovementioned provisions in order to bring the legislation into conformity with the Convention. It asks the Government to indicate, in its next report, the progress made in this regard and to supply a copy of the latest consolidated text of the Industrial Relations Act.

The Committee is addressing a more detailed request on the matter directly to the Government.

Belgium (ratification: 1961)

Article 1(c) of the Convention. The Committee notes the Government's report.

In its previous comments, the Committee had drawn the Government's attention to the need to amend or repeal sections 10, 22, 25(1) and (2), 26(1), 27 and 28 of the Disciplinary and Penal Code for the Merchant Navy and the Commercial Fishing Fleet, which provide for penalties of imprisonment involving compulsory labour for seafarers found guilty of certain breaches of labour discipline.

The Committee noted that a preliminary draft of a Bill to amend the Disciplinary and Penal Code for the Merchant Navy and the Commercial Fishing Fleet had been submitted to the Council of State for an opinion. It notes from the Government's last report that the above Bill has been amended and transmitted to the Ministry of Justice, where it is currently under examination by the competent department of the General Directorate of Penal Law and Human Rights, before being submitted once again to the Council of State.

The Committee hopes that the text of the amendments will be adopted in the near future in order to ensure, in conformity with the Convention, that penalties of imprisonment involving compulsory labour cannot be imposed upon seafarers for breaches of labour discipline which do not imperil the safety of the vessel or the life or health of persons.

Belize (ratification: 1983)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> *Article 1(c) and (d) of the Convention.* In comments made for a number of years, the Committee has referred to section 35(2) of the Trade Unions Act (Ch. 238), under which a penalty of imprisonment (involving, by virtue of section 66 of the Prison Rules, an obligation to work) may be imposed on any person employed by the Government, municipal authority or any employer in charge of supplying electricity, water, railway, health, sanitary or medical services or communications or any other service that may by proclamation be declared by the Governor to be a public service, if such person wilfully and maliciously breaks a contract of service, knowing or having reasonable cause to believe that the probable consequences will be to cause injury or danger or grave inconvenience to the community. The Committee has also noted that, in pursuance of section 2 of the Settlement of Disputes Essential Services Act (Ch. 235), Statutory Instrument No. 92 of 1981 declared the National Fire Service, Postal Service, Monetary and Financial Services (banks, treasury, monetary authority), Airports (civil aviation and airport security services) and the Port Authority (pilots and security services) to be essential services; Statutory Instrument No. 51 of 1988 declared the Social Security Scheme administered by the Social Security Branch an essential service; and Statutory Instrument No. 32 of 1984 declared Revenue Services, including all Revenue Collecting Departments and Agencies of the Government to be essential services.
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> The Committee noted from the Government's 1994 report that there have been no steps to bring section 35(2) of the Trade Unions Act into conformity with the requirements of the Convention. It recalls that under *Article 1(c) and (d)* of the Convention, legislation providing for sanctions involving compulsory labour as a punishment for violations of labour discipline or for having participated in strikes must be repealed. It refers also to the explanations in paragraphs 110, 114 to 116 and 123 of its General Survey of 1979 on the abolition of forced labour. Whilst it notes that there are no recorded penalties of imprisonment imposed under section 35(2), the Committee again expresses the hope that the necessary measures will be taken to bring section 35(2), as well as actual practice, into conformity with the Convention and that meanwhile the Government will provide information on its application in practice, including any cases in which penalties of imprisonment have been imposed under it.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Benin (ratification: 1961)

Article 1(a) of the Convention. In its previous comments, the Committee noted that the provisions of Act No. 60-12 of 30 June 1962 on the freedom of the press provides for imprisonment involving compulsory labour for various acts or activities related to the exercise of the right of expression. The Committee referred in this connection to the following provisions: section 8 (deposit of a publication with the authorities before its circulation to the public); section 12 (allowing a ban on publications of foreign origin in French or in the vernacular printed in or outside the country); section 20 (incitement to commit an act classified as an offence); section 23 (causing offence to the Prime Minister); section 25 (publishing false reports); and sections 26 and 27 (slander and insults).

The Committee expressed the hope that the new Act on freedom of information, to which the Government had referred in its report, would be adopted promptly and would guarantee that no term of imprisonment involving compulsory labour could be imposed as a penalty for activities related to the exercise of the right of expression.

The Committee noted the adoption of Act No. 97-010 of 20 August 1997, liberalizing audiovisual communications and establishing special penal provisions relating to offences in the area of the press and audiovisual communications, provided by the Government, and the Government's indication that the new Act does not repeal Act No. 60-12, but that in the event of conflicting provisions, those of Act No. 97-010 prevail.

The Committee observed that the provisions of the new Act did not eliminate the divergences between the national legislation and the Convention, since the scope of the new Act covered audiovisual communications but not "printing, sales of books and periodicals", which fall within the scope of Act No. 60-12 of 30 June 1960. The Committee regretted that some provisions of the new Act were similar to those of Act No. 60-12. It noted that, under section 79 of Act No. 97-010, "any seditious shouts or chants against the lawfully established authorities in public places or meetings" are punishable by a sentence of imprisonment of from six months to two years, and that causing offence to the President of the Republic is punishable by imprisonment of from one to five years, under section 81; section 80 punishes by imprisonment of from two to five years any provocation of the public security forces aimed at distracting them from their duty of defending security and obeying the orders given by their chiefs for the enforcement of military laws and regulations. Section 67 of Decree No. 73-293 of 15 December 1973 establishing the prison regulations allows convicts to be assigned to social rehabilitation work.

The Committee asked the Government to take the necessary steps to ensure observance of the Convention and to provide all relevant information on the application in practice of the abovementioned provisions of Acts Nos. 60-12 and 97-010, together with copies of any court decisions clarifying their scope.

The Committee notes that in its report the Government indicates that, in the second phase of the ILO's programme to support implementation of fundamental principles and rights at work, the texts to apply the fundamental Conventions, including Convention No. 105, are to be compiled and edited, and that the Committee's observations will be studied in this context with a view to harmonizing domestic law with the provisions of the Convention.

The Committee hopes that the Government will be in a position to provide information in its next report on the measures taken to ensure that national law and practice are brought into line with the Convention.

Article 1(c). In its previous comments the Committee noted that under sections 215, 235 and 238 of the Merchant Shipping Code of 1968, certain breaches of discipline by seafarers were punishable by imprisonment involving compulsory labour. In its last report the Government states that the draft Merchant Shipping Code has not yet been adopted.

The Committee hopes that the new Code will ensure application of the Convention in this respect and asks the Government to provide a copy of it as soon as it is enacted.

Article 1(d). The Committee noted the comments on the application of the Convention made by the Confederation of Autonomous Trade Unions of Benin, dated 31 May 2000, which were forwarded by the Government. The trade union organizations stated that the requisition procedure, as set out in Ordinance No. 69-14, constitutes forced labour and that the provisions of this Ordinance are in breach of international and constitutional provisions concerning the right to strike.

In its observations on the application of the Forced Labour Convention, 1930 (No. 29), the Committee has referred for many years to the provisions of the abovementioned Ordinance which allow workers on strike to be requisitioned under penalty of imprisonment.

The Committee notes with interest that, according to the Government's statement in its reports on Conventions Nos. 29 and 105, an Act on the exercise of the right to strike has just been adopted and will be promulgated by the President of the Republic very shortly. The new Act repeals all the provisions of Ordinance No. 69-14/MFPRAT of 19 June 1969.

The Committee asks the Government to provide a copy of the Act on the exercise of the right to strike as soon as it has been promulgated.

Bolivia (ratification: 1990)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> *Article 1(d) of the Convention.* In previous comments the Committee referred to section 234 of the Penal Code under which advocacy of lockouts, strikes or stoppages declared illegal by the labour authorities is punishable by imprisonment for a term of between one and five years. The Committee requested the Government to supply information on the effect given in practice to these provisions in order to enable it to evaluate their scope, and to provide copies of court decisions made under them, and the number of convictions made.
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> With reference to this matter, the Committee notes the conclusions of the Committee on Freedom of Association on the complaint made by the World Confederation of Labour (WCL), Case No. 2007 (GB.277/9/1 of March 2000).
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> According to the complainant organization, the Ministry of Labour declared the strike illegal in resolution No. 178/97 of 14 April 1997. "The company initiated legal proceedings

against union officials and members for participation in an illegal strike, sabotage and incitement in Criminal Investigations Tribunal No. 8. The judge issued arrest warrants against the workers (these have still not been carried out), basing the decision on section 234 of the Penal Code. … The WCL alleges that this case sets an extremely serious precedent in criminalizing a strike …" (GB.277/9/1, paragraph 263).

In its conclusions the Committee on Freedom of Association states that "the Committee of Experts in its comments on the application of Convention No. 87 by Bolivia in 1999 and previous years criticized certain restrictions in respect of the right to strike, such as the requirement for a majority of three-quarters of the workers of the enterprise to call a strike (section 114 of the Act and section 159 of the Regulation), the unlawful nature of general and sympathy strikes which are liable to penal sanctions (Legislative Decree No. 02565 of 1951) and the recourse to compulsory arbitration by decision of the Executive Power to put an end to the strike (section 113 of the General Labour Act). In these circumstances the Committee urges the Government to adopt measures as a matter of urgency with a view to amending legislation concerning strikes in respect of all the points raised by the Committee of Experts and with regard to the need to ensure that strikes may be declared illegal only by an independent body, given that excessive requirements and restrictions in many cases make legal strike action impossible in practice" (paragraph 282). In its recommendations, the Committee "emphasizes that no worker on strike who has acted peacefully should be subject to criminal sanctions, and asks the Government to reform the Penal Code with this principle in mind and to inform it of any rulings that are handed down in this regard" (paragraph 285(c)).

The Committee refers to the explanations contained in paragraphs 126 et seq. of its 1979 General Survey on the abolition of forced labour which indicate that excessive restrictions imposed on exercise of the right to strike have an impact on application of the Convention. This is the case of the requirement for a qualified majority to call a strike and the existence of compulsory arbitration systems when such restrictions result in a declaration that the strike is illegal with the consequent penal sanctions and the imposition of compulsory prison labour.

The Committee notes that the Government is disposed to amend the provisions of the Penal Code which make illegal strikes punishable by imprisonment (GB.277/9/1, paragraph 280).

The Comraittee hopes that the Government will take the necessary measures to ensure that penalties involving compulsory labour will not be imposed for participation in strikes and will provide information on progress made to that end.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Cameroon (ratification: 1962)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Article 1(a) of the Convention. The Committee has been commenting for a number of years on sections 111, 113, 116, 154 and 157 of the Penal Code which provide for sentences involving compulsory labour in cases, inter alia, of expression of opinions directed against the public authorities, and also to sections 4, 12, 19, 33 and 34 of Act No. 90-53 on freedom of association, which provides the same sentences for activities connected to the maintenance of an association which has been dissolved.

In its last report, the Government indicates that the overall question is one of sovereignty, that no State can allow disturbance of national cohesion and that the relationship to the Convention of the sections in question does not appear clear. The Committee takes due note of these indications. It recalls that the Convention protects neither slander nor violence or inciting to violence. However, as the Committee indicated in paragraphs 133-140 of its 1979 General Survey on the abolition of forced labour, the protection provided by the Convention is not limited to activities expressing or demonstrating dissent within the framework of established principles. Consequently, the fact that some activities aim to bring about fundamental changes in the institutions of the State, does not provide grounds for considering them to be outside the scope of the Convention, provided that, in the pursuit of the objective sought, violent methods are neither used nor advocated.

It is to ascertain that the application in practice of the abovementioned penal provisions is limited to activities falling outside the scope of the Convention, that the Committee has repeatedly requested the Government to supply, in particular, copies of any judicial decisions which define or illustrate their scope, as well as information on any measures taken or envisaged to ensure the observance of the Convention in this connection. Since this information is still lacking, the Committee is renewing its request in a more detailed request addressed directly to the Government.

Article 1(c) and (d). In its comments for a number of years, the Committee has noted that under section 226, 229, 242, 259 and 261 of Merchant Shipping Code (Ordinance No. 62/DF/30 of 1962), certain breaches of discipline committed by seamen may be punished by imprisonment involving the obligation to work.

The Government had stated that studies were being conducted with a view to revising the Merchant Shipping Code and harmonizing national legislation and practice with the provisions of the Convention. Since no information on this subject was included in the Government's last report, the Committee again expresses the hope that the Government will report the results of these studies and on progress in the revision of the Merchant Shipping Code and indicate the measures taken or envisaged to ensure that sentences of imprisonment involving forced labour can no longer be incurred by seamen for breaches of discipline that do not endanger the vessel or human life or health.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Canada (ratification: 1959)

The Committee notes the Government's report.

Article 1(c) and (d) of the Convention. In its earlier comments the Committee referred to section 247(1)(b), (c) and (e) of the Canada Shipping Act, under which penalties of imprisonment involving compulsory labour may be imposed for breaches of discipline that do not endanger the safety of the ship or the life or health of persons. The Committee notes with interest the Government's indications that the new Canada Shipping Act 2001 passed Parliament in May 2001 and is currently being studied by the Senate Transportation Committee, and that the concept of possible imprisonment for wilful disobedience by a seafarer or an apprentice of any lawful command is not contemplated or reflected in the new Act.

The Committee hopes that the new Canada Shipping Act will be adopted in the near future and that no penalties of imprisonment involving compulsory labour will be provided for breaches of labour discipline that do not endanger the safety of the ship or the life or health of persons. It asks the Government to supply a copy of the new Shipping Act, as soon as it is adopted.

Egypt (ratification: 1958)

The Committee has noted the Government's report.

Article 1(a) of the Convention

1. In its earlier comments, the Committee referred, inter alia, to certain provisions of the Penal Code, Act No. 156 of 1960 respecting the reorganization of the press, Act No. 32 of 12 February 1964 respecting associations and private foundations, the Public Meetings Act of 1923, the Meetings Act of 1914 and Act No. 40 of 1977 respecting political parties. It pointed out that the implementation of these provisions could affect the application of *Article 1(a)* of the Convention, which prohibits the use of sanctions involving any form of compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

2. The Committee noted the Government's indication in its 1997 report that Act No. 156 of 1960 respecting the reorganization of the press had been amended by Act No. 148 of 1980 respecting press authority, which had subsequently been repealed by Act No. 96 of 1996 on the reorganization of the press. The Government stated that the new Act provides for the independence of journalists from any intervention in the performance of their work, though they are subject to the provisions of the law, and prohibits the imposition of pre-trial detention on journalists for crimes related to publication. The Government indicates in its latest report that Act No. 156 of 1960, which was previously referred to, as amended by Act No. 148 of 1980, has been repealed by the said Act, in virtue of its section 55. The Committee again expresses the hope that the Government will supply a copy of the repealing provision.

3. In its earlier comments, the Committee also referred to the following legislative provisions, which are enforceable with sanctions involving compulsory labour:

(a) section 98(a)bis and 98(d) of the Penal Code, as amended by Act No. 34 of 24 May 1970, which prohibit the following: advocacy, by any means, of opposition to the fundamental principles of the socialist system of the State, encouraging aversion or contempt for these principles, encouraging calls to oppose the union of the people's working forces, constituting or participating in any association or group pursuing any of the foregoing aims, or receiving any material assistance for the pursuit of such aims;

(b) sections 2, 12 and 92 of Act No. 32 of 12 February 1964 concerning associations and private foundations, under which no association may be established if its objective is to impair the social system of the Republic, wide discretionary powers are granted to the competent administrative authorities to refuse the establishment of any association, and imprisonment with compulsory labour may be imposed on anyone who undertakes any activity on behalf of an association not duly established;

(c) the Public Meetings Act, 1923, and the Meetings Act, 1914, granting general powers to prohibit or dissolve meetings, even in private places;

(d) sections 98(b), 98(b)bis and 174 of the Penal Code (concerning advocacy of certain doctrines); and

(e) sections 4 and 26 of Act No. 40 of 1977 respecting political parties, which prohibit the creation of political parties whose objectives are in conflict with Islamic legislation or with the achievements of socialism, or which are branches of foreign parties.

Referring to the explanations provided in paragraphs 102 to 109 and 133 to 134 of its 1979 General Survey on the abolition of forced labour, the Committee must point out that the abovementioned provisions are contrary to the Convention in so far as they provide for sanctions involving compulsory prison labour for expressing certain political views or views ideologically opposed to the political system, or for having infringed a discretionary decision by the administration depriving persons of the right to make public their opinions or suspending or dissolving certain associations. The Committee hopes that the necessary measures will be taken to bring these provisions into conformity with the Convention, and that the Government will report on the action taken. Pending the amendment of the legislation, the Committee hopes that the Government will provide full information on their application in practice.

Article 1(d)

4. In its earlier comments, the Committee referred to sections 124, 124A, 124C and 374 of the Penal Code, under which strikes by any public employee may be punished with imprisonment which may involve compulsory labour. The Government states in its latest report that the concept of a public employee is linked with the performance of public services whose interruption would endanger the life, personal safety or health of the whole or part of the population. Referring to the explanations provided in paragraphs 123 and 124 of its 1979 General Survey on the abolition of forced labour, the Committee must point out that only penalties for participation in strikes in essential services *in the strict sense of the term* (that is, services whose interruption would pose a clear and imminent threat to the life, personal safety or health of the whole or part of the population) fall outside the scope of the Convention. This cannot be taken for granted generally for any public employee. The Committee therefore hopes that appropriate measures will be taken in this connection to ensure the observance of the Convention (e.g. by limiting the scope of the abovementioned provisions to persons working in essential services in the strict sense as indicated above), and that pending the amendment of the legislation, the Government will supply copies of any court decisions handed down under the abovementioned provisions of the Penal Code.

Article 1(c) and (d)

5. The Committee previously referred to sections 13(5) and 14 of the Maintenance of Security, Order and Discipline (Merchant Navy) Act, 1960, under which penalties of imprisonment involving compulsory labour may be imposed on seafarers who together commit repeated acts of insubordination. The Committee recalled in this connection that *Article 1(c) and (d)* of the Convention prohibits the exaction of forced or compulsory labour as a means of labour discipline or as punishment for having participated in strikes. The Committee noted that, in order to remain outside the scope of the Convention, punishment should be linked to acts that endanger or are likely to endanger the safety of the vessel or the life of persons. The Committee observed that, under

section 13(5) read together with section 14 of the Act, breaches of discipline or participation in strikes may be punished with imprisonment even in circumstances where the safety of the vessel or the life and health of persons are not endangered. While noting the Government's indication in its latest report that the Act on Maritime Commerce No. 8 of 1990 does not contain provisions relating to the punishment of seafarers, the Committee trusts that appropriate measures will be taken in the near future with a view to amending the abovementioned provisions of the 1960 Act in order to ensure the observance of the Convention.

The Committee addresses a request on certain other points directly to the Government.

Ghana (ratification: 1958)

The Committee notes the information provided by the Government in reply to its earlier comments.

Article 1(a), (c) and (d) of the Convention

1. In comments made for a considerable number of years, the Committee has referred to provisions of the Criminal Code, the Newspaper Licensing Decree, 1973, the Merchant Shipping Act, 1963, the Protection of Property (Trade Disputes) Ordinance and the Industrial Relations Act, 1965, under which imprisonment (involving an obligation to perform labour) may be imposed as a punishment for non-observance of restrictions imposed by discretionary decision of the executive on the publication of newspapers and the carrying on of associations, for various breaches of discipline in the merchant marine and for participation in certain forms of strikes. Having requested the Government to adopt the necessary measures in regard to these provisions to ensure that no form of forced or compulsory labour (including compulsory prison labour) might be exacted in circumstances falling within *Article 1(a), (c) or (d)* of the Convention, the Committee noted the Government's statement that the National Advisory Committee on Labour was discussing the comments of the Committee of Experts and that it was the wish of the Government to bring the legislation concerned into conformity with the Convention. The Government also indicated in its report received in 1996 that the National Advisory Committee on Labour concluded discussions on the Committee of Experts' comments and submitted recommendations to the Minister in March 1994 designed to bring domestic legislation into conformity with ILO standards, and the comments of the Committee of Experts had been submitted to the Attorney-General for a closer study and expert comments.

In its reports received in 1999 and 2001, the Government has indicated that the action of the Attorney-General to bring the legislation into conformity with the Convention in accordance with the recommendations of the National Advisory Committee on Labour has been halted in view of the proposed review and codification of the labour laws. It has also indicated that the tripartite National Forum that includes representatives of the Attorney-General's Office, the National Advisory Committee on Labour and the employers' and workers' organizations, would consider the comments made by the Committee of Experts regarding the application of the Convention.

The Government indicates in its latest report that the National Forum has already codified all the country's labour laws into a single labour bill, which is being considered by the Cabinet and will be forwarded to Parliament to be passed into law. The Committee expresses firm hope that the necessary action will at last be taken on the various points which are once again recalled in detail in a request addressed directly to the Government.

2. The Committee previously noted the adoption of the Political Parties Law, 1992, the Emergency Powers Act, 1994, and the Public Order Act, 1994, which gave rise to a number of questions under the Convention that are also reiterated in the request addressed directly to the Government.

Guatemala (ratification: 1959)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation on the following points:

> 1. With reference to its previous comments, the Committee notes with interest the text of Decree No. 143-96 repealing Legislative Decree No. 19-86 respecting voluntary civil defence committees (this Decree provided for compulsory enrolment and imposed penalties in the event of refusal to serve; the committee which examined the representation under article 24 of the Constitution against Guatemala had recommended its repeal). The Committee also notes that the civil defence committees have been disarmed and demobilized under international control, in the context of the peace agreements signed by the Government and the Revolutionary National Union of Guatemala (URNG).
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> 2. In its previous comments, the Committee noted that Legislative Decree No. 9 of 1963, which established sanctions for various activities relating to communist or similar parties, had been repealed by Decree No. 130-96. The Committee notes that a copy of the latter text, which came into force on 23 December 1996, was supplied by the Government.
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> 3. The Committee draws the Government's attention to the comments that it has been making for many years on certain provisions of the Penal Code which are not compatible with the Convention, and particularly with *Article 1(a), (c) and (d)*. The Committee had noted that, under section 47 of the Penal Code, sentences of imprisonment involving compulsory labour can be imposed as a punishment for the expression of certain political opinions, as a means of labour discipline or for participation in a strike, under the terms of the following provisions:
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> - section 396 of the Penal Code: "Any person who seeks to organize or operate associations which act in collaboration with, or in obedience to, international bodies propounding the communist ideology or any other totalitarian system, or that are intended to commit offences, or who participates in such associations, shall be punished by imprisonment of from two to six years";
> - section 419: "Any public servant or employee who fails or refuses to carry out, or delays carrying out, any act corresponding to his function or responsibility, shall be punished with imprisonment of from one to three years";
> - section 390(2): "Persons who commit acts intended to paralyse or perturb enterprises which contribute to the economic development of the country, without these acts necessarily involving recourse to violence, shall be punished with imprisonment of from one to five years";
> - section 430: "Public servants, public employees and other employees or members of the staff of a public service enterprise who collectively abandon their jobs, work or service, shall be punished with imprisonment of from six months to two years. If such a stoppage prejudices the public interest or, in the case of leaders, promoters or

> organizers of the collective stoppage, those responsible shall be liable to double the penalty."

The Committee hopes that the necessary measures will be taken to bring the legislation into conformity with the Convention on these points and that the Government will provide information on the measures taken for this purpose.

Guinea (ratification: 1961)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> In previous comments, the Committee noted that detention or imprisonment could be imposed for infringements of certain provisions of the Penal Code (sections 71(4), 110, 111, 176 and 177) respecting the exercise of the right of expression. Penalties of detention or imprisonment applicable in the event of infringements of such provisions involve the obligation to work, under the terms of sections 14 and 28 of the Penal Code.
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> The Committee notes the Government's statement that a new Penal Code has been adopted. The Committee hopes that the new text will bring the national legislation into conformity with the Convention and that the Government will provide a copy of it with its next report. The Committee also requests the Government to provide copies of any legislation respecting prison work.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Iraq (ratification: 1959)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> 1. *Article 1(a), (c) and (d) of the Convention.* In its earlier comments, the Committee referred to a number of provisions of the Penal Code, the Press Act and the Societies Act, under which penalties of imprisonment involving, according to section 87 of the Penal Code, compulsory prison labour, may be imposed as a means of political coercion or as a punishment for expressing political views or views which are ideologically opposed to the established political order, or for stopping or hampering activities in a wide range of government offices, public utilities, organizations, associations and industrial installations, without distinction between essential and non-essential services.
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> The Committee also noted the Government's repeated statements that neither section 87 of the Penal Code nor Law No. 104 of 1981 on the State Organization for Social Reform governing prison work provided for forced labour on the part of prisoners. Work performed by prisoners was not compulsory; it was executed in conformity with section 18 of Law No. 104 which provided that each inmate had the right to work in conformity with his capacities and qualifications, in order to get vocational training; work was governed by the provisions of the Labour Code and, in practice, it was not even possible to satisfy all the demands for work.
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> In its latest report, the Government repeats these indications, adding that under section 20(2) of Law No. 104 of 1981, as amended by Law No. 8 of 1986, work by prisoners outside the penal institutions is voluntary.
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> The Committee takes due note of these indications. It recalls that under both sections 87 and 88 of the Penal Code, concerning imprisonment and hard detention (to be imposed on persons sentenced to more than one year's imprisonment), persons convicted are to be assigned to work, as specified by law, in a penal institution. Under section 19 of Law

No. 104 of 1981 on the State Organization for Social Reform, work, while not being a punishment in itself, "shall constitute an integral part of the enforcement of the punishment", and "the technical committees shall regard the work as a mandatory necessity for maintaining intact the integrity of the inmates, the wards and the community". While the Government indicated in an earlier report that the necessary measures were being taken to modify section 19 of Law No. 104 of 1981 with a view to providing that work of persons sentenced to imprisonment was optional and depended on their will and free choice, no such measures appear to have been taken so far. The Committee once more expresses the hope that the necessary measures will be taken to ensure the observance of the Convention with regard to the abovementioned provisions of the legislation, be it by removing the restrictions on the freedom of expression, the right to strike and the other rights and freedoms touched upon in *Article 1(a), (c) and (d)* of the Convention, or by removing the penalties of imprisonment (involving an obligation to work) through which these restrictions are enforced, or by amending sections 87 and 88 of the Penal Code and Law No. 104 of 1981 so as to make prison labour optional for those concerned.

Pending the adoption of the appropriate legislative amendments, the relevant provisions of the Penal Code, the Press Act and the Societies Act are again set out in a request addressed directly to the Government.

2. *Article 1(c).* In previous comments, the Committee referred to section 364 of the Penal Code, which provides for imprisonment in cases where officials or persons with public functions leave their work even after resignation or do not carry out their work when this might endanger the life, health or safety of the population or cause riots or unrest or paralyse a public service. It noted that under resolution No. 150 of 1987 of the Revolutionary Command Council (RCC) all workers in state service and the socialist sector are public officials, and that under RCC resolution No. 521 of 7 May 1983 the resignation of Iraqi officials in the state services or the socialist sector or mixed sector may not be accepted in the first ten years of service and is subject to the reimbursement of all training costs before or after the appointment. Officials resigning without the agreement of their department also lose their rights arising from previous service, under resolution No. 700 of 13 May 1980. Only women may have their resignation accepted unconditionally under resolution No. 703 of 5 September 1987. Also, under resolution No. 200 of 12 February 1984 any official or worker in state services or the socialist sector who after written notice does not resume work or exceeds leave by more than three days without a reasonable excuse is subject to imprisonment of from six months to ten years, and under resolution No. 552 of 28 June 1986 the same applies to all officials or graduates centrally placed who do not accept their posting.

The Committee refers to the explanations provided in paragraph 110 of its 1979 General Survey on the abolition of forced labour, where it indicated that forced or compulsory labour as a means of labour discipline may consist, inter alia, of measures to ensure the due performance by a worker of his service under compulsion of law. While the Convention does not protect persons responsible for breaches of labour discipline that impair the operation of essential services or in circumstances where life and health are in danger, in such cases there must exist an effective danger, not mere inconvenience. Furthermore, the workers concerned must remain free to terminate their employment on reasonable notice. The Committee further recalls that the effect of statutory provisions preventing termination of employment of indefinite duration by means of notice of reasonable length is to change a contractual relationship based on the will of the parties into service by compulsion of law, and is thus incompatible with both the present Convention and the Forced Labour Convention, 1930 (No. 29), likewise ratified by Iraq.

The Committee once more refers to the report of the Governing Body committee set up to consider the representation made by the Federation of Egyptian Trade Unions under article 24 of the ILO Constitution alleging non-observance by Iraq of several ILO Conventions (document GB.250/15/25, Geneva, May-June 1991). The Committee notes that the Governing Body committee concluded in its recommendations, inter alia, that:

(i) the Government should take the necessary measures to repeal, in so far as they are still in force, the provisions of the Penal Code and the Revolutionary Command Council resolutions which prevent workers from terminating their employment by giving notice of reasonable length and which provide for penalties involving compulsory labour as a means of labour discipline;

(ii) pending the repeal of these provisions, the Government should take the necessary measures to enable all workers wishing to terminate their employment relationship to leave their jobs by giving notice of reasonable length and without being liable to sanctions or deprivation of rights accrued from previous service;

(iii) the Government should communicate, in its reports to be transmitted under article 22 of the Constitution on the application of the present Convention, information on the measures taken or envisaged to give effect to these recommendations in order to enable the supervisory bodies of the ILO to continue the examination of the questions dealt with in this report.

The Committee recalls that, in its 1993 report, the Government indicated that measures had been taken to amend, inter alia, section 364 of the Penal Code. In the absence of further information on the matter, the Committee again requests the Government to supply detailed information on any measures taken so far to give effect to the recommendations of the Governing Body committee, including copies of any amending legislation adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Jamaica (ratification: 1962)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Article 1(c) and (d) of the Convention. For a number of years, the Committee has commented on sections 221, 224 and 225(1)(b), (c) and (e) of the 1894 Merchant Shipping Act which provided for the punishment of various disciplinary offences with imprisonment (involving an obligation to perform labour under the Prisons Law) and for the forcible conveyance of seafarers on board ship to perform their duties.

The Government indicates in its report that the new Jamaica Shipping Act, 1998, came into operation on 2 January 1999, and that the provisions related to the forcible conveyance of seafarers on board ship and the punishment of disciplinary offences committed under the Act are not included in the new Act.

The Committee notes, however, that the punishment of disciplinary offences with imprisonment (involving an obligation to perform labour) is still provided for in sections 178(1)(b), (c) and (e) and 179(a) and (b) of the new Act. While the new Act contains no provisions concerning the forcible conveyance of seafarers on board ship, the offences of desertion and absence without leave are still punishable with imprisonment (involving an obligation to work) (section 179). Similarly, penalties of imprisonment are provided for in section 178 (1)(b), (c) and (e) inter alia for wilful disobedience or neglect of duty or combining with any of the crews to impede the progress of the voyage, and by virtue of section 178(2) an exemption from liability under subsection (1) applies only to seafarers participating in a lawful strike after the ship has arrived and has been secured in good safety to the satisfaction of the master at a port, and only at a port in Jamaica.

> The Committee points out once again, with reference to paragraphs 117-119 and 125 of its 1979 General Survey on the abolition of forced labour, that provisions under which penalties of imprisonment (involving an obligation to work) may be imposed for desertion, absence without leave or disobedience are incompatible with the Convention. Only sanctions relating to acts that are likely to endanger the safety of the ship or the life or health of persons (e.g. as provided for in section 177 of the new Shipping Act) have no bearing on the Convention.
>
> The Committee therefore expresses the firm hope that the necessary measures will be taken in the near future to bring the legislation into conformity with the Convention, e.g. by amending or repealing the abovementioned provisions of the Shipping Act, 1998, and that the Government will provide information on progress made in this regard.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Kenya (ratification: 1964)

Over a number of years the Committee has been referring to various provisions of the Penal Code, the Public Order Act, the Prohibited Publications Order, 1968, the Merchant Shipping Act, 1967, and the Trade Disputes Act (Cap. 234) under which imprisonment (involving an obligation to perform labour) may be imposed as a punishment for the display of emblems or the distribution of publications signifying association with a political object or political organization, for various breaches of discipline in the merchant marine and for participation in certain forms of strikes.

The Committee has noted the Government's indication in its report received in November 2000 that the Penal Code, the Public Order Act and the Prohibited Publications Order, 1968, are stated for revision in the framework of the constitutional reform to be undertaken before 2002. It has also noted the Government's indications that the Merchant Shipping Act, 1967, and the Trade Disputes Act (Cap. 234) are still being revised and will be finalized in the framework of the comprehensive labour law revision project which will start soon in consultation with the social partners and with the technical assistance of the ILO, and that the labour law reform will consider amendments/repeals requested by the Committee. In its latest report received in November 2001, the Government indicates that a task force has been set up through the Attorney-General to review several legislative texts including the Penal Code, the Public Order Act and the Prohibited Publications Order, and another task force has been set up to review all the labour laws which will complete its work by August 2002.

The Committee trusts that the Government will soon be able to report on progress achieved as regards bringing the abovementioned provisions into conformity with the Convention. It asks the Government to provide information on various points raised in a more detailed request addressed directly to the Government.

Kuwait (ratification: 1961)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observations which read as follows:

> 1. *Article 1(a) of the Convention.* For over ten years, the Committee has been referring in its comments to Legislative Decree No. 65 of 1979 respecting public meetings and gatherings, which establishes a system of prior authorization and, in the event of

violations, provides for a penalty of imprisonment which involves, by virtue of the Penal Code, the obligation to work. The Committee noted that under section 6 of the above Decree, such authorization may be refused without giving reasons and that appeals against such refusal can be lodged only with the Minister of the Interior, whose decision is final. The Committee requested the Government to take the necessary measures to ensure observance of the Convention on this point.

In its previous report, the Government reiterated that the prior authorization provided for in the aforementioned Decree is a measure of national security and that it does not apply to private meetings.

The Committee recalls that it has noted on several occasions the importance for the effective observance of the Convention of legal guarantees respecting the right of assembly and the direct bearing that a restriction of this right can have on the application of the Convention. Indeed, it is often through the exercise of this right that political opposition to the established order can be expressed, and in ratifying the Convention the State has undertaken to guarantee persons who manifest this opposition in a peaceful manner the protection that the Convention affords them.

The Committee again asks the Government to take the necessary measures to bring Decree No. 65 of 1979 into conformity with the Convention, and, pending such action, to supply information on the application in practice of the provisions of the Decree, including the number of convictions for violations of its provisions and copies of any court decisions that define or illustrate their scope.

2. *Article 2(c) and (d).* In the comments that it has been making for more than ten years, the Committee has referred to Legislative Decree No. 31 of 1980 respecting security, order and discipline on board ship, under the terms of which certain breaches of discipline (unauthorized absence, repeated disobedience, failure to return to the vessel) committed by common agreement by three persons may be punished by imprisonment including an obligation to work.

The Committee noted that penalties imposed for violations of labour discipline or punishment for having participated in a strike do not come within the scope of the Convention where such acts endanger the safety of the vessel or the life or safety of the persons on board, but that sections 11, 12 and 13 of Legislative Decree No. 31 of 1980 do not limit the application of the penalties involved in such acts.

The Committee requested the Government to re-examine Legislative Decree No. 31 of 1980 in the light of the Convention and to indicate the measures taken to bring the legislation on merchant shipping into conformity with the Convention.

In its previous report, the Government again referred to the need to be able to grant the captain of a vessel the necessary powers to maintain discipline and safety on board.

The Committee once more expresses the hope that the Government will take the necessary measures to amend Legislative Decree No. 31 of 1980 in order to limit the imposition of penalties involving compulsory labour to cases in which the violations committed constitute a danger for the life or safety of the persons on board and that it will provide information on the action taken to this effect.

Liberia (ratification: 1962)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Article 1(a) of the Convention. 1. In its earlier comments the Committee observed that prison sentences (involving, under Chapter 34, section 34-14, paragraph 1, of the Liberian Code of Laws, an obligation to work) might be imposed in circumstances falling within Article 1(a) of the Convention under section 52(1)(b) of the Penal Law (punishing certain forms of criticism of the Government) and section 216 of the Election Law (punishing participation in activities that seek to continue or revive certain political parties). The Committee also requested the Government to provide a copy of Decree No. 88A of 1985 relating to criticism of the Government.

2. The Committee notes with interest the Government's indication in its report that section 216 of the Election Law and Decree No. 88A of 1985 have been repealed. Since the copies of repealing Acts referred to by the Government as annexed to its report have not been received at the ILO, the Committee hopes that copies will soon be forwarded. The Committee also requests the Government to state whether section 52(1)(b) of the Penal Law is still in force, and if so, to indicate the measures taken with a view to ensuring observance of the Convention.

3. The Committee previously noted that under a Decree adopted by the People's Redemption Council before its dissolution in July 1984, parties can be forbidden if they are considered to have engaged in activities or expressed objectives which go against the republican form of government or basic Liberian values. The Committee again requests the Government to indicate whether the provisions of this Decree are still in force and, if so, to provide a copy of the text of the Decree.

Article 1(c). 4. In its earlier comments the Committee noted that under section 347(1) and (2) of the Maritime Law, local authorities shall apprehend and deliver a seafarer who deserts from a vessel with the intention of not returning to duty and who remains unlawfully in a foreign country. Referring to paragraph 110 of its 1979 General Survey on the abolition of forced labour, the Committee must point out that measures to ensure the due performance by a worker of his service under compulsion of law (in the form of physical constraint or the menace of a penalty) constitute forced or compulsory labour as a means of labour discipline and are thus incompatible with the Convention. The Committee hopes that section 347(1) and (2) of the Maritime Law will soon be repealed and that the Government will supply information on the measures taken to this end.

5. The Committee also noted that under section 348 of the Maritime Law various other offences against labour discipline by seafarers such as incitement to neglect duty, assembling with others in a tumultuous manner, may be punished with imprisonment of up to five years (involving an obligation to work). The Committee referred to paragraphs 117 and 125 of its 1979 General Survey on the abolition of forced labour where it pointed out that sanctions relating to acts tending to endanger the ship or the life or health of persons on board do not fall within the scope of the Convention. However, as regards more generally breaches of labour discipline such as desertion, absence without leave or disobedience, all sanctions involving compulsory labour should be abolished under the Convention. In a great number of maritime nations, similar penal provisions have been repealed, restricted in scope to cases involving a danger to the ship or the life or health of persons, or otherwise amended so as to provide for a fine or some other penalty not falling within the scope of the Convention. The Committee therefore again expresses the hope that measures will be taken to bring section 348 of the Maritime Law into conformity with the Convention, and that the Government will provide information on the action taken to this end.

6. In its earlier comments the Committee referred to Decree No. 12 of 30 June 1980 prohibiting strikes. It notes with interest the Government's statement in its report that a draft law repealing the abovementioned Decree is now before the competent authority for passing into law. The Committee requests the Government to provide a copy of the repealing law as soon as it is adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Libyan Arab Jamahiriya (ratification: 1961)

The Committee has noted the information provided by the Government in reply to its earlier comments.

1. *Article 1(a), (c) and (d) of the Convention.* Over a number of years, the Committee has been referring to various provisions of Publications Act of 1972, under which persons expressing certain political views or views ideologically opposed to the established political, social or economic system may be punished with penalties of imprisonment (involving, under section 24(1) of the Penal Code, an obligation to perform labour). The Committee also referred to sections 237 and 238 of the Penal Code, under which penalties of imprisonment (involving compulsory labour) may be imposed on public servants or employees of public institutions as a punishment for breaches of labour discipline or for participation in strikes, even in services the interruption of which would not endanger the life, personal safety or health of the whole or part of the population.

The Committee previously noted that Act No. 20 of 1991 on the promotion of freedom proclaims the right of citizens to express their opinion, and that point 2 of the Green Book on Human Rights prohibits punishments such as forced labour or long-term imprisonment. It also noted the Government's indications to the effect that the abovementioned provisions of Publications Act No. 76 of 1972 and of the Penal Code would be amended, and that under section 2 of Act No. 5 of 1991 on the application of the principles of the Green Book on Human Rights, amendments must be drawn up within a period of one year.

In its reports received in 2000 and 2001, the Government reaffirms its intention to amend the provisions of Publications Act No. 76 of 1972 and the Penal Code referred to above, so as to ensure compliance with the Convention.

The Committee trusts that the necessary amendments will be made in the near future so as to ensure that no penalties involving compulsory labour may be imposed as a punishment on persons who have expressed certain political or ideological opinions or who have committed breaches of labour disciplines or participated in strikes, and that copies of the amendments will be forwarded to the ILO, as soon as they are adopted.

2. The Committee previously noted from the Government's report that the Orders of the Higher Council of the Revolution of 1969, the texts of which it had been requesting, became null and void following the promulgation of Acts Nos. 5 and 20 of 1991. It also noted that section 35 of Act No. 20 of 1991 provides that all conflicting legislation has to be amended.

The Government reaffirms in its latest report that the Orders in question are no longer valid. The Committee reiterates its hope that the necessary measures will be taken to formally repeal these texts and that copies of the repealing texts will be communicated, as soon as they are adopted. It also once more expresses the hope that the legislative texts governing the establishment, functioning and dissolution of associations and political parties will be sent to the ILO.

Mauritius (ratification: 1969)

The Committee notes the Government's report. The Committee has also taken note of a communication dated 24 October 2001 of the International Confederation of Free

Trade Unions (ICFTU), submitting comments on the observance of the Convention in Mauritius, a copy of which was forwarded to the Government on 5 November 2001 for any comments it may wish to make on the matters raised therein.

Article 1(c) and (d) of the Convention

In its earlier comments the Committee noted that, under sections 183 and 184 of the Merchant Shipping Act of 1986, certain breaches of discipline by seamen (such as desertion, neglect or refusal to join the ship, absence without leave, neglect of duty) are punishable by imprisonment (involving an obligation to perform labour), and that under section 183(1), (3) and (4), seamen who are not citizens of Mauritius, and who commit such offences, may be forcibly conveyed on board ship for the purpose of proceeding to sea. With reference to paragraphs 110-125 of its 1979 General Survey on the abolition of forced labour, the Committee has recalled that, in order to be compatible with the Convention, the provisions mentioned above should be restricted to punishing breaches of labour discipline that endanger the safety of the ship or the life or health of persons on board.

In its previous comments, the Committee has also observed that under sections 82 and 83 of the Industrial Relations Act, 1973, submission of any industrial dispute to compulsory arbitration is left to the discretion of the Minister. The decision handed down following this procedure is enforceable (section 85) and any strike becomes unlawful (section 92). Finally, participation in a strike thus prohibited may by punished by imprisonment (section 102) involving compulsory labour (section 35(1)(a) of the Reform Institutions Act). The Committee has observed that these provisions are incompatible with *Article 1(d)* of the Convention. It has pointed out that for provisions regarding compulsory arbitration, enforceable with sanctions involving compulsory labour, to be compatible with the Convention, their scope should be limited to essential services in the strict meaning of the term (namely those the interruption of which would endanger the life, personal safety or health of the whole or part of the population).

The Committee has also taken note of the comments of the ICFTU on these points, included in its communication of 24 October 2001.

The Committee notes the Government's indications that sections 183 and 184 of the Merchant Shipping Act, 1986, and section 102(1) of the Industrial Relations Act have not been applied during the period under review, and that the Government is not aware that they have ever been applied. The Committee therefore asks the Government to take the necessary measures for these national laws to be brought into conformity with the Convention, by the explicit repeal or amendment of those sections of the Merchant Shipping Act, 1986, and the Industrial Relations Act, 1973, referred to above, in order that there should be no continuing uncertainty as to their application and that the positive law reflect the practice which, according to the Government, is already in effect. The Committee hopes that in the very near future the legislation will be brought into conformity with the Convention, and that the Government will report on the action taken.

Nigeria (ratification: 1960)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> The Committee hopes the Government will supply a report for examination at its next session, and that it will indicate in detail the position in relation especially to *Article 1(a), (c), (d) and (e) of the Convention*, bearing in mind among other things the questions raised in the previous comments concerning these matters:
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> 1. The Government is requested to indicate whether the State Security (Detention of Persons) Decree, No. 2 of 1984, as amended, continues in force and whether forced or compulsory labour may be imposed under it in circumstances incompatible with the Convention.
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> 2. The Government is requested to indicate steps taken to ensure observance of the Convention in respect of: (i) section 81(1)(b) and (c) of the Labour Decree, 1974, as regards direction to fulfil contracts of employment on pain of imprisonment involving an obligation to work; (ii) section 117(b), (c) and (e) of the Merchant Shipping Act, as regards possible imprisonment with the obligation to work for seafarers in breach of discipline; and (iii) section 13(1) and (2) of the Trade Disputes Decree, No. 7 of 1976, as regards similar imprisonment for participation in strikes.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Pakistan (ratification: 1960)

The Committee notes the information provided by the Government in reply to its earlier comments. It also notes the observations received in September 2001 from the International Confederation of Free Trade Unions (ICFTU) concerning the application of the Convention, which were transmitted to the Government in October 2001 for such comments as might be considered appropriate. The Committee hopes that the Government will refer to these observations in its next report.

Article 1(c) and (d) of the Convention.

1. In its earlier comments made under the present Convention and the Forced Labour Convention, 1930 (No. 29), the Committee noted that the Pakistan Essential Services (Maintenance) Act, 1952, and corresponding provincial Acts, prohibit employees from leaving their employment, even by giving notice, without the consent of the employer, as well as from striking, subject to penalties of imprisonment that may involve compulsory labour.

2. The Committee previously noted the comments made under the Convention in July 1999 by the All Pakistan Federation of Trade Unions (APFTU), in which it stated that the provisions of the Essential Services Act apply, inter alia, to workers employed in various public utilities such as WAPDA, Railway, Telecommunication, Karachi Port Trust, Sui Gas, etc., and these workers cannot resign from their service and cannot go on strike. The Committee also noted from a report by the ILO South Asia Multidisciplinary Advisory Team that the Ghazi Barotha Hydro Power Project (in which the World Bank was providing assistance for the construction of a power complex on the Indus river) had been declared by the Government as an essential service, so that the abovementioned restrictions applied to workers on the project.

3. The Committee has noted the Government's repeated statement in its reports that the application of the 1952 Act has been made very restrictive and it is extended only in cases of extreme nature, when peaceful and uninterrupted supply of goods and services to the general public appears to be disturbed. The Government also indicates

that all workers covered by the Act join service without force and the requirement to obey justifiable and lawful orders of the employer does not constitute forced labour. The Committee recalls that, during the discussion in the Conference Committee in 2000, the Government's representative repeated indications previously given to this Committee to the effect that the Act applied to only six categories of establishments (a reduction from an initial list of ten categories) which were considered truly essential to the life of the community. As regards the Ghazi Barotha Hydro Power Project, which had been placed under the Act, the Government's representative assured the Conference Committee that the application of the Act to this project was a temporary measure. The Government's representative also informed the Conference Committee that the observations of the Committee of Experts concerning the Act had been placed before the Tripartite Commission on the Consolidation, Simplification and Rationalization of Labour Laws, and that the Commission's recommendations would be provided to the ILO and to the social partners when finalized.

4. While noting these indications, and referring also to the explanations provided in paragraphs 110 and 123 of its 1979 General Survey on the abolition of forced labour, the Committee points out once again that the Convention does not protect persons responsible for breaches of labour discipline or strikes that impair the operation of essential services in the strict sense or in other circumstances where life and health are in danger; however, in such cases there must exist an effective danger, not mere inconvenience. Furthermore, all the workers concerned – whether in any employment under the federal and provincial governments and local authorities or in public utilities, including essential services – must remain free to terminate their employment by reasonable notice; otherwise, a contractual relationship based on the will of the parties is changed into service by compulsion of law, which is incompatible with both the present Convention and the Forced Labour Convention, 1930 (No. 29), likewise ratified by Pakistan. The Committee therefore reiterates firm hope that the Pakistan Essential Services Act and corresponding provincial Acts will be either repealed or amended in the near future so as to ensure the observance of the Convention, and that the Government will report on the action taken to this effect.

5. The Committee previously referred to sections 100 to 103 of the Merchant Shipping Act, under which penalties involving compulsory labour may be imposed in relation to various breaches of labour discipline by seafarers, and seafarers may be forcibly returned on board ship to perform their duties. It noted the Government's indications in its reports received in 1997 and 1999 that the abovementioned sections of the Act had been reintroduced in the Merchant Shipping Bill, with some modifications. The Government indicates in its latest report that the Bill has been converted into Ordinance 2001, which is in the process of enactment. In the Government's view, the new Ordinance fulfils the requirements of the Convention. The Committee trusts that the necessary amendments will at last be adopted, so as to remove the penalties involving compulsory labour from sections 100 and 100(ii), (iii) and (v) of the Merchant Shipping Act (or limit their scope to offences committed in circumstances endangering the safety of the ship or the life, personal safety or health of persons) and to repeal the provisions of sections 101 and 102 of the Act under which seafarers may be forcibly returned on board ship to perform their duties. The Committee asks the Government to provide information on the progress made in this regard.

6. In comments made for many years, the Committee has referred to sections 54 and 55 of the Industrial Relations Ordinance (No. XXIII of 1969) under which whoever commits any breach of any term of any settlement, award or decision or fails to implement any such term may be punished with imprisonment which may involve compulsory labour. The Committee expressed the hope that the necessary measures would be taken to bring the Industrial Relations Ordinance into conformity with the Convention, either by repealing sections 54 and 55 of the Ordinance or by repealing the penalties which may involve compulsory labour, or by limiting their scope to circumstances endangering the life, personal safety or health of the population. During the discussion in the Conference Committee in June 2000, the Government's representative indicated that sections 54 and 55 were placed before the Tripartite Commission on Consolidation, Simplification and Rationalization of Labour Laws. The Committee notes the Government's indication in its latest report that the Commission has finalized its recommendations, on the basis of which the draft labour laws are being prepared. It expresses firm hope that the Industrial Relations Ordinance will be brought into conformity with the Convention, and that the Government will supply full information on the provisions adopted to this end.

Article 1(a) and (e)

7. In comments made for a number of years, the Committee has referred to certain provisions in the Security of Pakistan Act, 1952 (sections 10-13), the West Pakistan Press and Publications Ordinance, 1963 (sections 12, 23, 24, 27, 28, 30, 36, 56, and 59) and the Political Parties Act, 1962 (sections 2 and 7) which give the authorities wide discretionary powers to prohibit the publication of views and to order the dissolution of associations, subject to penalties of imprisonment which may involve compulsory labour.

8. As regards the West Pakistan Press and Publications Ordinance, 1963, the Committee previously noted the Government's indication in its report, as well as the information provided by the Government's representative to the Conference Committee in June 2000, according to which the Ordinance was repealed in 1988, and the Registration of Printing Press and Publication Ordinance was enacted. However, the Government indicated in its previous report that the latter Ordinance was allowed to lapse in 1997, and since then there had been no such law in force. The Committee notes the Government's indication in its latest report that a new draft press law has been finalized, in consultation with the All Pakistan Newspapers Society (APNS) and the Council of Pakistan Newspapers' Editors (CPNE); the Government indicates that the draft is now at the vetting stage. The Committee requests the Government to supply a copy of the new press law, as soon as it is adopted.

9. As regards the Security of Pakistan Act, 1952, and the Political Parties Act, 1962, the Committee previously noted that during the discussion in the Conference Committee in June 2000, the Government's representative indicated that both Acts had been brought to the attention of the competent authorities. It notes that the Government's latest report contains no new information on this subject. The Committee expresses firm hope that the necessary measures will soon be taken in order to bring the abovementioned provisions of these Acts into conformity with the Convention and that the Government will report on progress achieved. Pending action to amend these

provisions, the Government is again requested to supply information on their practical application, including the number of convictions and copies of any court decisions defining or illustrating the scope of the legislation.

10. In its earlier comments, the Committee referred to sections 298B(1) and (2) and 298C of the Penal Code, inserted by the Anti-Islamic Activities of Quadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance, No. XX of 1984, under which any person of these groups who uses Islamic epithets, nomenclature and titles is punished with imprisonment for a term which may extend to three years.

11. The Committee has noted the Government's repeated statement in its reports that religious discrimination does not exist and is forbidden under the Constitution, which guarantees equal citizenship and fundamental rights to minorities living in the country. The Government states that subject to law, public order and morality, the minorities have the right to profess, propagate their religion and establish, maintain and manage their religious institution. According to the Government's view, the Penal Code imposes equal obligations on all citizens, whatever their religion, to respect the religious sentiments of others; an act which impinges upon the religious sentiments of other citizens is punishable under the Penal Code. The Government indicates that religious rituals referred to in Ordinance No. XX are prohibited only if exercised in public, whereas if they are performed in private without causing provocation to others, they do not fall under the prohibition.

12. The Committee previously noted the report presented to the United Nations Commission on Human Rights in 1991 by the Special Rapporteur on the Application of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Conviction (document E/CN.4/1990/46 of 12 January 1990), referring to allegations according to which proceedings were instituted, on the basis of sections 298B and 298C of the Penal Code, in the districts of Guranwala, Shekhupura, Tharparkar and Attock, against a number of persons having used specific greetings. The Committee also noted from the report by the Special Rapporteur presented to the Commission on Human Rights in 1992 (document E/CN.4/1992/52 of 18 December 1991) that nine persons were sentenced to two years' imprisonment for acting against Ordinance XX of 1984 in April 1990, and that another person was sentenced to one year of imprisonment in 1988 for wearing a badge, the sentence being upheld by the Court of Appeal. It was stated that the Ahmadi daily newspaper had been banned during the past four years, its editor, publisher and printer indicted, and Ahmadi books and publications banned and confiscated. There was also reference to the sentencing under sections 298B and 298C of the Penal Code of two Ahmadis to several years' imprisonment.

13. The Committee requested the Government to provide factual information on the practical application of the provisions of sections 298B and 298C of the Penal Code, including the number of persons convicted and copies of court decisions, in particular in the proceedings mentioned by the Special Rapporteur, as well as of any court ruling that sections 298B and 298C are incompatible with constitutional requirements. The Government indicates in its latest report that five cases have been registered in the district of Attock against persons belonging to Ahmadis: four persons have been acquitted and the conviction of one person has been maintained by the High Court. The Committee also notes the information communicated by the Government on four cases registered against persons belonging to Quadiani group who were professing and

convincing other people to join the group, on the basis of section 298C of the Penal Code: two cases were reported for cancellation, two others were pending trial in the court. The Committee observes that no information has been supplied on court practice which would contradict the findings of the Special Rapporteur referred to above.

14. While noting this information, the Committee points out once again, referring also to the explanations provided in paragraphs 133 and 141 of its 1979 General Survey on the abolition of forced labour, that the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite to violence or engage in preparatory acts aimed at violence. But where punishment involving compulsory labour is aimed at the peaceful expression of religious views, or where such punishment (for whatever offence) is meted out more severely, or even exclusively, to certain groups defined in social or religious terms, this falls within the scope of the Convention. The Committee therefore reiterates its firm hope that the necessary measures will be taken in relation to sections 298B and 298C of the Penal Code, so as to ensure the observance of the Convention.

Papua New Guinea (ratification: 1976)

The Committee notes the Government's report.

Article 1(c) and (d) of the Convention. In comments it has been making since 1978, the Committee has been referring to section 7(1)(a), (c), (d) and (e) of the Seamen (Foreign) Act, Chapter 177, according to which a seafarer belonging to a foreign ship who deserts or commits certain other disciplinary offences is liable to imprisonment (involving an obligation to perform work). It also noted that under section 8 of the same Act and section 165 of the Merchant Shipping Act, foreign seafarers deserting their ship may be forcibly returned on board ship.

The Committee pointed out that sanctions of imprisonment (involving an obligation to perform labour) would only be compatible with the Convention where they are clearly limited to acts endangering the safety of the ship or the life or health of the persons on board, but not where they relate more generally to breaches of labour discipline, such as desertion, absence without leave or disobedience; similarly, provisions under which seafarers may be forcibly returned on board ship are not compatible with the Convention.

The Committee noted the Government's indication in its previous report that the abovementioned section 165 had been amended. It notes, however, that section 161 of the revised text of the Merchant Shipping Act (Chapter 242) (Consolidated to No. 67 of 1996), supplied by the Government, still contains a provision similar to that of the former section 165 and allows a forcible return of a deserting foreign seafarer on board ship, which is not compatible with the Convention.

As regards section 7(1)(a), (c), (d) and (e) and section 8 of the Seamen (Foreign) Act, the Committee previously noted the Government's indication that, although necessary steps had been taken with the Department of Transport towards amending these provisions, no amendments had taken place due to continuous staff changes and movements. The Committee also noted the Government's intention to ask for ILO technical assistance in this respect. The Government's latest report contains no new information on this point.

The Committee expresses the firm hope that the abovementioned provisions will at last be brought into conformity with the Convention, and that the Government will soon be in a position to indicate the measures taken to this end.

Philippines (ratification: 1960)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

> *Article 1(d) of the Convention.* In its earlier comments the Committee noted that in the event of a planned or current strike in an industry considered indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and settle it or certify it for compulsory arbitration. Furthermore, the President may determine the industries indispensable to the national interest and assume jurisdiction over a labour dispute (section 263(g) of the Labor Code, as amended by Act No. 6715). The declaration of a strike after such assumption of jurisdiction or submission to compulsory arbitration is prohibited (section 264), and participation in an illegal strike is punishable by imprisonment (pursuant to section 1727 of the Revised Administrative Code, an obligation to perform labour) of up to three years (section 272(a) of the Labor Code). The revised Penal Code also lays down sanctions of imprisonment (section 146).
>
> The Committee pointed out, with reference to paragraph 123 of its 1979 General Survey on the abolition of forced labour, that any compulsory arbitration enforceable with penalties involving compulsory labour must be limited to services whose interruption would endanger the life, personal safety or health of the whole or part of the population. It noted from the Government's report received in November 1994 that amendments to section 263(g) of the Labor Code had been proposed in Senate Bill No. 1757 which sought to limit the situation only to disputes affecting industries performing essential services and that the Bill had been filed with Congress. The Government's previous report simply referred to a proposal to amend section 263(g) with a view to limiting its application only to disputes in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population, but contains no information on the progress made in consideration of the abovementioned Bill No. 1757 in Congress.
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> The Committee trusts that the Government will soon be in a position to indicate progress in bringing the legislation into conformity with the Convention.
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> It has raised several other points in a request addressed directly to the Government.

Sierra Leone (ratification: 1961)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> In its earlier comments the Committee requested the Government to supply indications on the evolution of the political situation, in so far as it relates to the application of the Convention. It noted that the Constitution adopted in 1991 (Act No. 6 of 1991) which provided for the recognition and protection of fundamental human rights and freedoms, had been suspended. The Government informed the Committee in its latest report (1995) that public meetings of a political nature remained banned and that new guidelines for publications had been introduced.
>
> The Committee noted that in July 1996 the Constitutional Reinstatement Provisions Act reinstated the suspended parts of the 1991 Constitution. It further noted the change of government in May 1997 and hoped that the Government would supply information on the developments of the political situation in the country, in so far as the application of the

Convention is concerned, and in particular, information on the application of provisions concerning the freedom of speech and press, freedom of peaceful assembly and association. The Committee also asked the Government to provide, in its next report, the information requested in its previous observation on the application in practice of sections 24, 32 and 33 of the Public Order Act (concerning public meetings, the publication of false news and seditious offences). Please also provide particulars of the outcome of work of the Constitutional Review Committee, to which the Government referred in its 1995 report.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Sudan (ratification: 1970)

The Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

Article 1(d) of the Convention. The Committee notes that sections 112, 119 and 126(2) of the Labour Code of 21 June 1997 specify that labour disputes which cannot be settled amicably within three weeks will be automatically referred to an arbitration body whose decision will be final and without appeal. Section 126(2) provides for a punishment of imprisonment for a period of up to six months in cases of violation or refusal to apply the provisions of the Code. According to the prison regulations, Chapter IX, section 94, prison labour is compulsory for convicted prisoners.

The Committee notes that the abovementioned provisions reinstate those of the Industrial Relations Act, 1976 (repealed by the Code), which were the subject of earlier comments. The Government indicated in its report that the 1976 Act had been repealed and that no sanctions had been imposed under it.

The Committee requests the Government to indicate measures taken or envisaged to ensure that sanctions involving the obligation to work cannot be used to punish participation in strikes. It requests the Government to forward information on the application of the aforementioned provisions of the Labour Code, particularly regarding the number of persons convicted for having refused to fulfil the decision of an arbitration body, and to supply copies of the relevant judgements.

Article 1(a) of the Convention. In its earlier comments, the Committee referred to the effect that the declaration of emergency and the suspension of the guarantees set forth in the Convention could have on its application. The Committee notes that the declaration of emergency proclaimed in December 1999 is still in force.

The Committee takes note of the situation regarding human rights in Sudan as presented by the United Nations Special Rapporteur of the Commission on Human Rights (UN document A/374 of 11 September 2000). According to this report, while the declaration of emergency was not followed by wide-scale human rights violations, certain concerns remain concerning freedom of association. Moreover, the United Nations Committee on Economic, Social and Cultural Rights noted with concern that "some restrictions on the freedoms of religion, expression and association and peaceful assembly still exist ..." (E/C.12/1/Add.48 of 1 September 2000).

The Committee notes both section 50 of the Penal Code, which allows life imprisonment for whoever commits an act with the intention of destabilizing the constitutional system, and sections 66 and 69 of the same Code. Section 66 provides that whoever publishes false news with the intention of harming the prestige of the State can be sentenced to six months in prison, and section 69 provides that whoever intentionally commits an act intended to disturb the peace can be sentenced to three months in prison. As previously indicated, these sentences include the obligation to perform prison labour.

The Committee recalls that the Convention prohibits all recourse to forced or compulsory labour including compulsory prison labour as a means of political coercion or education or as a punishment for holding or expressing certain political views or views ideologically opposed to the established political, social or economic system.

The Committee also recalls that the protection conferred by the Convention is not limited to activities expressing or manifesting opinions diverging from established principles. Consequently, if certain activities aim to bring about fundamental changes in state institutions, this does not constitute a reason for considering that they escape the protection conferred by the Convention as long as they do not resort to or call for violent means to these ends.

The Committee also observes the importance for the effective respect of the Convention of the legal guarantees regarding freedom of assembly, expression, demonstration and association, and the direct effect which restriction of these rights can have on the application of the Convention. In practice it is often through the exercise of these rights that political opposition to the established system can be shown.

The Committee renews its request to the Government to forward copies of the legislation in force concerning freedom of association, assembly, and expression of political opinion, as well as the regulations adopted pursuant to the declaration of emergency. It also requests the Government to indicate whether the legislation exempts persons convicted for their political views from the obligation to perform prison labour.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Syrian Arab Republic (ratification: 1958)

The Committee has noted the information supplied by the Government in reply to its earlier comments in May 2000 and July 2001.

Article 1(a), (c) and (d) of the Convention. Over a number of years the Committee has been referring to certain provisions of the Economic Penal Code, the Penal Code, the Agricultural Labour Code and the Press Act, under which prison sentences involving compulsory labour can be imposed as a means of political coercion or as a punishment for expressing views opposed to the established political system, and as a punishment for breaches of labour discipline and for the participation in strikes. The Committee previously noted the Government's repeated indications in its reports that a draft legislative decree amending certain provisions of the Penal Code so as to eliminate all obligation to perform prison labour was being examined by the competent authorities. The Government indicates in its latest report that the draft legislative decree amending the Penal Code has been prepared by the Ministry of Justice in response to the economic and social developments witnessed by the country and to fulfil the request made by the Committee of Experts.

The Committee has noted from the Government's explanations and from the text of the draft legislative decree received in the ILO in July 2001 that the terms "imprisonment with labour", "life imprisonment with hard labour" or "temporary hard labour" shall be removed from the Penal Code. The Committee hopes that, following the adoption of the draft legislative decree, persons convicted for activities coming under the purview of the Convention, and, in particular, persons convicted under the provisions referred to in the Economic Penal Code, the Penal Code, the Agricultural Labour Code and the Press Act, will no longer be under an obligation to perform labour, although they might be allowed to engage in work. The Government is requested to supply a copy of the legislative decree, as soon as it is adopted.

Trinidad and Tobago (ratification: 1963)

The Committee notes that the Government's report contains no new information in reply to its earlier comments concerning the following matters:

1. *Article 1(c) and (d) of the Convention.* In its earlier comments the Committee referred to sections 157 and 158 of the Shipping Act, 1987, which provide for imprisonment – involving compulsory labour under the Prisons Rules – in cases of disobedience, desertion and absence without leave; and section 162, empowering forcible return on board ship of seafarers in desertion. Referring to paragraphs 110 and 117 of its 1979 General Survey on the abolition of forced labour, the Committee pointed out that these provisions are incompatible with the Convention, in so far as they imply not only sanctions including compulsory work but also legal compulsion in the form of direct physical constraint or the menace of a penalty for participation in strikes or breaches of labour discipline or to ensure performance of services by workers. The Committee has noted the Government's indications in its reports of 2000 and 2001 that the revision of the Shipping Act is currently under way and all these issues are being considered in the process. It reiterates firm hope that the revising text will be adopted in the near future and that the legislation will be brought into conformity with the Convention. The Committee requests the Government to provide, in its next report, information on the progress made in this regard.

2. The Committee has previously referred to section 8(1) of the Trade Disputes and Protection of Property Ordinance, which lays down penalties involving compulsory labour for breach of contract by persons employed in certain public services and is not limited in this respect to services whose interruption might endanger the life, personal safety or health of the whole or part of the population. The Committee has noted the Government's statements in its reports of 2000 and 2001 that this legislation will be repealed soon, since it is "colonial" legislation and is not in practice in Trinidad and Tobago. It hopes that the Government will take the necessary measures in order to ensure compliance with the Convention on this point and asks the Government to report any progress achieved in this regard.

3. The Committee's earlier comments referred to section 69(1)(d) and (2) of the Industrial Relations Act, Chapter 88.01, which prohibits teachers from taking part in a strike, subject to penalties of imprisonment involving an obligation to work. The Government has indicated in its reports of 2000 and 2001 that the committee responsible for reviewing the Act has made no recommendation in respect of that issue. The Committee reiterates firm hope that the necessary measures will be taken in the near future in order to bring the abovementioned provisions of the Industrial Relations Act into conformity with the Convention. It requests the Government to indicate, in its next report, the progress made in this regard.

Uganda (ratification: 1963)

The Committee notes that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

> *Article 1(a), (c) and (d) of the Convention.* Over a number of years, the Committee has been referring to the following legislation:
>
> (i) the Public Order and Security Act, No. 20 of 1967, empowering the executive to restrict an individual's association or communication with others, independently of the commission of any offence and subject to penalties involving compulsory labour;
>
> (ii) sections 54(2)(c), 55, 56 and 56A of the Penal Code, empowering the Minister to declare any combination of two or more persons an unlawful society and thus render any speech, publication or activity on behalf of or in support of such combination illegal and punishable with imprisonment (involving an obligation to perform labour);
>
> (iii) section 16(1)(a) of the Trade Disputes (Arbitration and Settlement) Act, 1964, under which workers employed in "essential services" may be prohibited from terminating their contract of service, even by notice; sections 16, 17 and 20A of the same Act, under which strikes may be prohibited in various services that, while including those generally recognized as essential ones, also extend to other services, and contravention of these prohibitions is punishable with imprisonment (involving an obligation to perform labour).
>
> The Committee has noted the Government's repeated statement in its reports that the labour legislation has been revised to enhance the application of the Convention, but the revised legislation is still in the form of a draft Bill. It also notes the Government's indication in its latest report that the revision of the legislation (Labour Law Reform Project) is going on under the ILO/UNDP consultancy, and that a technical report is expected by the end of November 2000. The Committee expresses firm hope that a Bill to repeal or revise the abovementioned provisions will be adopted in the near future and that the legislation will be brought into conformity with the Convention. It requests the Government to provide information on the progress made in this regard and to communicate a copy of the revised legislation as soon as it is adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

United Kingdom (ratification: 1957)

The Committee notes the Government's reply to its earlier comments. It also notes the comments made by the TUC concerning the Government's report on the application of the Convention, received in November 2001.

Article 1 (c) and (d) of the Convention. The Committee previously noted that section 59(1) of the Merchant Shipping Act, 1995, provides that a seafarer who combines with other seafarers employed on the same ship at a time while the ship is at sea to disobey lawful commands, neglect any duty which is required to be discharged, or impede the progress of a voyage or the navigation of the ship, is liable, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both. According to section 59(2), a ship is treated as being at sea at any time when it is not securely moored in a safe berth. The Government stated in its 1997 report that section 59 is applicable to seafarers who withdraw their labour in furtherance of an industrial dispute.

The Committee noted from the Government's 1999 report that consultations took place with the shipping industry on whether or not section 59 should be repealed or amended so that it applied only to mutinies but not strikes, and it was concluded that other parts of the Act and other legislation existed to deal effectively with actions arising from mutinies, if section 59 was repealed.

The Government indicates in its latest report that, following consultation with the UK shipping industry, further negotiations were undertaken with some respondents to ascertain whether a compromise solution could be reached that would address concerns expressed. The Committee notes with interest that, as a result of these consultations, the decision was taken to seek to amend section 59, so that it is linked to actions which are not only committed while a ship is at sea, but also cause or could have caused loss or destruction of, or serious damage to, any ship or the death of or serious injury to any person (subsection (2)(i), (ii) and (iii) of the draft amendment to section 59). The Committee notes that the Government considers it necessary to undertake further consultation with the shipping industry. Noting also the Government's statement in the report that the amendment of section 59, as a part of UK primary legislation, requires the approval of Parliament, the Committee hopes that the proposed amendment will be adopted so as to bring the merchant shipping legislation into conformity with the Convention.

The Committee is again addressing a request on certain other points directly to the Government.

United States (ratification: 1991)

1. The Committee has noted the Government's report with its reply to the Committee's earlier request for information. The Committee also has noted a communication dated 11 September 2001 of the International Confederation of Free Trade Unions (ICFTU), submitting comments on the observance of the Convention in the United States, a copy of which has been forwarded to the Government for any comments it may wish to make on the matters raised therein.

2. In its communication dated 11 September 2001, the ICFTU referred to the Committee's concern as to whether violation of a no-strike injunction could be classified as criminal contempt, with the consequence that due process would attach and the person could then be convicted and sentenced to prison labour, in violation of Convention No. 105. This matter will be considered in paragraph 5 et seq. below.

3. In its communication, the ICFTU further commented in some detail on widely varying conditions of employment in prison industries in different US states and their role in the private sector and international trade. It also made the following allegations of forced labour by migrant workers.

> Some of the employment in territories under the control of the United States Government amounts to forced labour. Since the 1980s the United States Commonwealth of the Northern Mariana Islands has developed a garment industry based on the ability of these islands to ship products duty free and without quotas to the United States. This status, together with local control of wage and immigration laws, has had the practical effect of introducing a system of indentured servitude into the territory. Local authorities permit foreign-owned companies to recruit thousands of foreign workers, mainly young women from Thailand, China, the Philippines and Bangladesh. The workers are recruited by private agencies that demand exorbitant fees from these workers. Fees are either paid in advance or are deducted from pay in an arrangement that requires the workers to remain in the employ of the same manufacturer who in turn has a relationship with the recruiting agency.

> In addition to the abuse of fee-charging, these foreign workers are routinely required to sign employment contracts where they agree to refrain from asking for wage increases, seeking other work and from joining a union. The workers are informed that contract violations will result in dismissal as well as deportation and that the workers concerned must pay the travel expenses to return to their home country.
>
> Many similar conditions are faced by migrant domestic workers coming to the United States under the various applicable employer-related visa schemes. These workers are often victims of physical abuse, face severe restriction on their freedom of movement, and work under conditions tantamount to slavery. Many migrant domestic workers are paid far less than the minimum wage, and, under the terms of their visa, face deportation for leaving their employer to escape from these oppressive conditions.

The ICFTU concluded that:

> There are grounds for serious concern about commercial production by prisoners in the United States and about practices amounting to forced labour by exploited migrant workers (mainly women) in United States dependent territories, and migrant domestic workers in the United States.

4. The Committee takes due note of these allegations. As regards the Northern Mariana Islands, the Committee observes that the Abolition of Forced Labour Convention, 1957 (No. 105) is not among the ILO Conventions which have been declared applicable to that territory by the United States. As regards the conditions faced by migrant workers coming to the United States, the Committee hopes that the Government will present its comments on the allegations made by the ICFTU.

5. The Committee previously noted the Government's indication that persons imprisoned for engaging in illegal strikes, who are jailed for contempt of court, are considered pre-trial detainees under United States law and practice and as such are not subject to prison labour. In respect of the distinction between criminal and civil contempt and its implications regarding an obligation to perform prison labour, the Government supplied, inter alia, information on the Supreme Court finding in *United Mineworkers v. Bagwell*, 512 U.S. 821 (1994), that the union's failure to obey an injunction regarding unlawful strike-related activities constituted criminal contempt. The Government pointed out that the court did not appear to have sentenced any union members or officials in *Bagwell* to jail for contempt. The Committee requested the Government to supply further information on the development of law and practice in this field, indicating, in particular, whether in law, union members or officials might be sentenced to jail for criminal contempt in circumstances comparable to *Bagwell* and, if so, whether these would be considered pre-trial detainees under United States law and practice or be granted on a different basis a comparable status exempting them from an obligation to perform prison labour.

6. In response to the Committee's request, the Government supplied several examples of court decisions and indicated that it remains the understanding of the United States that persons who are jailed for contempt are considered pre-trial detainees and, as such, are not subject to prison labour. In addition, it emphasized that jailing anyone for contempt of court in the context of a labour dispute is not a common practice in the United States. For example, it noted that in *Bagwell*, which involved very serious contempt allegations within a labour dispute, it appears that no one was jailed for any purely labour-related, as opposed to criminal, offences.

7. The Committee notes these indications, which do not, however, appear to cover the full range of national law and practice regarding the punishment, with penalties involving compulsory labour, of persons engaging in prohibited strikes, particularly at the state and local levels.

8. The Committee notes that under Chapter 95 (Department of Labor and Labor Regulations), article 12, section 95-98.1 of the North Carolina General Statutes, strikes by public employees are declared illegal and against the public policy of the State. No person holding a position either full- or part-time by appointment or employment with the State of North Carolina or in any county, city, town or other political subdivision of the State of North Carolina, or in any agency of any of them, shall wilfully participate in a strike by public employees. Under section 95-99, any violation of the provisions of article 12 is declared to be a Class 1 misdemeanour. Under section 15A-1340.23, read together with section 15A-1340.11 of Chapter 15A (Criminal Procedure Act), a person convicted of a Class 1 misdemeanour may be sentenced to "community punishment" and, upon a second conviction, to "active punishment", that is imprisonment. Article 3 (Labor of Prisoners), section 148-26 of Chapter 148 (State Prison System) declares it to be the public policy of the State of North Carolina that all able-bodied prison inmates shall be required to perform diligently all work assignments provided for them. The failure of any inmate to perform such a work assignment may result in disciplinary action.

9. Under *Article 1(d) of the Convention*, States are obliged to abolish all penalties involving any form of compulsory labour which may be imposed as a punishment for having participated in strikes. There is no exception to this rule in the Convention.

As the Committee indicated in paragraph 123 of its 1979 General Survey on the abolition of forced labour, it has nonetheless considered that it is not incompatible with the Convention to impose penalties (even if involving an obligation to perform labour) for participation in strikes in the civil service or other essential services, provided that such provisions are applicable only to essential services in the strict sense of the term (that is, services whose interruption would pose a clear threat to the life, personal safety or health of the whole or part of the population) and that compensatory guarantees in the form of appropriate alternative procedures are provided.

10. The sweeping provisions of the North Carolina General Statutes quoted in paragraph 8 above do not meet these criteria and are contrary to *Article 1(d)* of the Convention. The Committee hopes that the necessary measures will be taken to bring the abovementioned provisions of the North Carolina General Statutes into conformity with the Convention, and that the Government will report on action taken to this end. The Committee also hopes that more generally, legislation and practice at the level of the states will be reviewed in the light of *Article 1(d)* of the Convention, and that the Government will report on the findings.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: ***Afghanistan, Albania, Algeria, Bahamas, Barbados, Belize, Bolivia, Cameroon, Czech Republic, Egypt, El Salvador, Fiji, France, Ghana, Grenada, Guinea-Bissau, Iraq, Italy, Jordan, Kenya, Mali, Niger, Pakistan, Philippines, Russian Federation, Saint Vincent and the Grenadines, Slovenia, South Africa, Togo, United Kingdom, Yemen.***

Convention No. 106: Weekly Rest (Commerce and Offices), 1957

Colombia (ratification: 1969)

The Committee notes with regret that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation, which read as follows:

> *Article 8, paragraph 3, of the Convention.* In comments it has been making for many years, the Committee has noted that under the terms of section 180 of the Labour Code, as amended most recently by Act No. 50 of 1990 to amend the Labour Code, a worker who as an exception works on the compulsory rest day may choose to benefit from compensatory paid leave or financial compensation. The Committee notes the Government's statement in its report that a bill to amend the above provision is currently being examined. The Committee recalls that under *Article 8, paragraph 3*, compensatory rest of a total duration at least equivalent to the period provided for under *Article 6* must be accorded where temporary exemptions are made to the requirements concerning weekly rest.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

[The Government is asked to report in detail in 2002.]

Costa Rica (ratification: 1959)

Articles 6 and 7 of the Convention. In its previous comments the Committee asked the Government to envisage amending sections 150 and 152 of the Labour Code in order to bring the national legislation into full conformity with the provisions of the Convention. It notes the Government's response of 2 October 2001 to the comments previously made by the Confederation of Workers Rerum Novarum (CTRN). It further notes that no such amendments have been made or envisaged so far. The Committee once again asks the Government to take all necessary measures to make the respective changes in the legislation, to ensure that in the course of each period of seven days at least 24 consecutive hours of rest are granted in commercial establishments, and all persons to whom special weekly rest schemes apply are entitled, in each period of seven days, to a rest period of not less than 24 hours.

Jordan (ratification: 1979)

The Committee notes the Government's report.

Articles 6 and 7 of the Convention. The Committee notes the Government's indication that projects, which are carried out in regions at long distances from the workers' homes could justify the accumulation of their weekly rest days in accordance with section 60(b) of the Labour Code, which stipulates that a worker may, with the employer's consent, accumulate weekly rest days in order to take them only once per month.

The Committee once again draws the Government's attention to the fact that exceptions from the provisions under *Article 6* may only be stipulated in accordance with *Articles 7 or 8*. Moreover, even if the nature of work, the nature of the service performed by the establishment, the size of the population to be served, or the number of persons employed is such that the normal weekly rest scheme may not apply, special weekly rest stipulated in accordance with *Article 7, paragraphs 1 and 4*, must in any case grant a total rest period of at least 24 hours every seven days *(Article 7, paragraph 3)*.

Article 8. Referring to its previous comments the Committee notes that section 59(b) of the Labour Code, which provides for payment for hours worked during a weekly rest day at a rate of 150 per cent of normal pay, is not in conformity with this Article. It must reiterate that only temporary exemptions from the weekly rest period may be granted under the enumerated cases in *Article 8, paragraph 1*, in consultation with the representative employers' and workers' organizations *(Article 8, paragraph 2)*. Furthermore, in any of these cases the workers shall benefit from compensatory rest in accordance with *Article 8, paragraph 3*, irrespective of any higher remuneration and even if the work on a weekly rest day has been carried out with the worker's agreement.

The Committee once again asks the Government to take the necessary measures as soon as possible to bring its legislation into conformity with the provisions of the Convention under *Articles 6, 7 and 8*. The Committee trusts that the Government's next report will contain detailed information on any progress made in this respect.

Saudi Arabia (ratification: 1978)

The Committee notes the Government's report.

Article 8, paragraph 3 of the Convention. Referring to its previous observation, the Committee notes with interest the information in the Government's report that a new Labour Code will soon be adopted and promulgated, which will ensure the granting of a compensatory rest day in addition to supplementary payment of wages in the event of work on a day of weekly rest. The Committee hopes that the new Labour Code will be enacted in the near future in order to give full effect to the provisions of the Convention. It asks the Government to supply a copy of the relevant text to the Office as soon as possible.

Syrian Arab Republic (ratification: 1958)

The Committee notes the Government's report.

Article 8, paragraph 3, of the Convention. The Committee notes the information that the new draft Legislative Decree to amend the Labour Code including the comments of the Committee was sent back for re-examination by the National Committee for Consultation and Tripartite Dialogue to include all necessary amendments requested by the Committee and to prepare the decree in its final version.

Referring to its previous comments the Committee recalls that since 1964 it has been drawing the Government's attention to the need to undertake the necessary steps to ensure compensatory rest in accordance with this Article for workers who work on a weekly rest day under the provisions of section 120 of the Labour Code.

It hopes that the final version of the legislative decree will be adopted in the near future and asks the Government to send a copy of the final text.

[The Government is asked to report in detail in 2002.]

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In addition, requests regarding certain points are being addressed directly to the following States: *Belarus, Bulgaria, Djibouti, Dominican Republic, Gabon, Haiti, Islamic Republic of Iran, Latvia, Lebanon, Malta, Morocco, Sri Lanka.*

Information supplied by *Slovenia* in answer to a direct request has been noted by the Committee.

Convention No. 107: Indigenous and Tribal Populations, 1957

Bangladesh (ratification: 1972)

1. The Committee recalls that for many years an armed conflict was taking place in the Chittagong Hill Tracts (CHT) region of the country between government forces and the Shanti Bahini, the armed wing of the Parbattya Chattagram Jana Sanghati Samity (PCJSS, United Peoples' Party of the CHT). The Committee noted in its previous observation that a Peace Agreement was signed between the Government and the PCJSS on 2 December 1997. It asked the Government to provide detailed information on its implementation, which has been received. The Committee's examination of the application of the Convention has been framed against the background of allegations over years of forced displacement of the tribal people of the CHT and settlement in the region of thousands of non-tribal people from other parts of the country, large numbers of tribal refugees fleeing the country, and disputes over land and tribal autonomy. While welcoming the Peace Agreement, it is aware that controversy remains over the slow progress of its implementation, as indicated in the Concluding Observations of the United Nations Committee on the Elimination of Racial Discrimination when it last examined the situation of Bangladesh (UN document CERD/C/304/Add.118, 23 April 2001). The Committee requests the Government to provide further information in this respect in its next report.

2. *Administration.* The Committee notes that an implementation committee for the Peace Agreement was constituted on 20 January 1998, and four meetings have been held. The Chittagong Hill Tracts Regional Council was created in May 1998, on the basis of the Agreement, to coordinate the three Hill District local government councils, and to carry out law and order functions. In September 1998, a 22-member interim regional council was established with the head of the PCJSS as its chairperson. The Committee requests the Government to continue to keep it informed on the progressive transfer of administrative responsibility to the tribal leaders in the CHT.

3. The Committee notes from the report that development allocations for the CHT have been made, and gradually increased, under the Peace Agreement but that the line ministries have taken up their own development programmes in these areas. Please provide more information on the practical implications of this development, with particular attention to the involvement of the tribal leadership in the planning and implementation of all development activities undertaken in the region.

4. *Legislation in force.* The Committee asked in its previous comments for information on the possible repeal of the Chittagong Hill Tracts Regulation (No. 1 of 1900), which has been the basic legislation in force for the region. The Government states in its report that the CHT Regional Council is to advise on the amendment of the Regulation and the removal of contradictions between it and the Hill Districts (Repeal

and Enforcement of Law and Special Provision) Act, 1989, which the Committee understands has not entered into force. Please provide information on the progress of this effort.

5. *Return of tribal refugees.* The Committee recalls that the return of tribal refugees from India was the subject of an agreement signed within the framework of the Peace Agreement. The Government states in its report that the return of these refugees from Tripura State in India was completed in February 1998 with the return to Bangladesh of 64,433 people belonging to 12,222 families. The Task Force established for the purpose has met regularly, and has now also completed the identification of internally displaced refugees. The Committee notes that the refugees were given rations for one year and nine months, which was more than provided for in the Peace Agreement. The Committee requests the Government to indicate in its next report whether the refugees have been resettled, whether in their former homes or elsewhere. Please also indicate whether the Task Force has issued reports on its work, and if so forward copies.

6. *Land – Articles 11 to 14.* One of the principal causes of the conflicts has been the loss of tribal land to non-tribals. The Peace Agreement provides that the Government is to carry out a cadastral survey in consultation with the Regional Council, with the objective of the Ministry of Land providing two acres of land to landless tribal families. The Committee notes the constitution of a Land Commission for this purpose in June 1999, which is to resolve all the different land disputes in the CHT. It notes with regret, however, that the Commission has not yet begun functioning. Given the importance of resolving these conflicts, the Committee hopes that the Land Commission has now gone into operation, and asks the Government to provide information on the progress achieved in this regard.

7. The Government has indicated that the Divisional Commissioner, Chittagong Division of the Ministry of Land, and the deputy commissioners of the three Hill Districts were instructed to take steps to cancel the lease agreements of non-tribals who were allotted lands in the CHT for rubber and other plantations and failed to use the lands for the purpose for which they were leased, and that some such leases have now been cancelled. Please indicate how much such land has been leased, how much has been recovered, and whether it has been distributed to landless tribal families.

8. The Committee notes in this regard that the rehabilitation case of 3,000 landless tribals to which reference was made in the Committee's previous comments has not been resolved, because the documentation for this purpose is still with the Planning Commission for approval. As this particular case has now been pending for several years, the Committee hopes the Government will be able to indicate in its next report that the situation of these families and others has been resolved.

9. The Committee notes the information received concerning reafforestation in the CHT, and requests the Government to keep it informed of progress in this regard.

10. As regards the Committee's concern about the Government's attitude towards "*jhum*" cultivation, which is the traditional shifting cultivation method of the tribal people in the CHT, it notes with interest the remark in the report that the Government is encouraging a different *jhum* method which it indicates will be less destructive of the environment. Please continue to provide information on discussions and policies in this connection.

11. The Committee notes that the Government has not provided a reply to the following point in the Committee's previous observation, and requests it to do so:

> With reference to its previous comments regarding the power of the district councils to allocate land rights, the Committee notes the Government's comment that a solution for this issue has been provided for in the Peace Agreement. The Committee also notes that, under section 26 of the Chapter of the Peace Agreement on Chittagong Hill Tracts Local Government/Hill District Council, no lands in a particular district can be leased out, sold, purchased or transferred without prior permission of the relevant district council, regardless of laws that may stipulate otherwise, with the exception of reserved forest, the Kaptai Hydro-electric Project Area, the Betbunia Satellite Station area, state-owned industrial enterprises and government-owned lands. Please indicate the proportion of the Chittagong Hill Tracts covered by this exception. The Committee also understands that the Government cannot acquire or transfer any lands, hills and forests under the jurisdiction of a district council without its prior approval.

[The Government is requested to report in detail in 2003.]

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In addition, requests regarding certain points are being addressed directly to the following States: *Angola, Malawi.*

Convention No. 108: Seafarers' Identity Documents, 1958

Barbados (ratification: 1967)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes with concern that, according to the Government's report, the seafarers' identity document is no longer issued to Barbadian nationals, and that "a seafarer entering Barbados would need to present a national passport and proof of engagement to join the vessel".
>
> The Committee recalls the obligation of a State party under *Article 2(1) of the Convention* to issue a seafarer's identity document to each of its nationals who is a seafarer on application by him. Therefore, the competent authority must have and make available a specific document for seafarers containing the full particulars prescribed by the Convention and, regardless of the document's national denomination, it must contain the statement that it is issued for the purpose of the Seafarers' Identity Documents Convention, 1958 (No. 108), of the International Labour Organization, as required under *Article 4(2)* of the Convention.
>
> Furthermore, the Committee recalls that under *Article 6(1) and (2)* of the Convention the identity document issued pursuant to this Convention shall suffice for a seafarer wishing to take temporary shore leave in a State party to the Convention; it need not be accompanied by a passport. In addition, where the identity document has space for appropriate entries, it entitles the seafarer to enter the territory for transit passage to join a ship or for repatriation, subject to the provision under *Article 6(3)* of the Convention according to which the receiving State may require documentary proof concerning the seafarer's engagement.
>
> The Committee recalls its comments on the application of this Convention in its last report (International Labour Conference, 87th Session, 1999, Report III (Part 1A), pages 21-25) and requests the Government to: (i) reinstate the identity document forthwith for seafarers who are Barbadian nationals, (ii) enact new regulations or amend existing ones so that foreign seafarers may enter Barbados with a valid identity document issued pursuant to

this Convention; and (iii) provide the Committee with copies of the relevant legislative and/or regulatory texts ensuring the application of the Convention in law and in practice.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Russian Federation (ratification: 1969)

The Committee notes with interest the information in the Government's report, including a list of normative instruments which affect the application of the Convention.

It takes particular note of two points made in reply to the Committee's previous comments: the adoption of the definition of a seafarer for the purposes of the Convention, as set forth in *Article 1 of the Convention*, and the recognition of the supremacy of a ratified treaty with regard to conflicting national law.

The Committee notes from the report that procedures were initiated to repeal paragraphs 9 and 10 of the Regulations on the Seafarers' Passport of 1 December 1997, No. 1508 concerning surrender of the identity document during periods when there is no employment relationship with a shipowner. The Government indicates that once these provisions of the Regulations have been repealed, the Instructions of 30 June 1998, No. 81/328 will be amended accordingly. The Committee understands that the purpose of these changes is to bring the instruments into conformity with *Article 3* of the Convention, according to which the identity document shall remain in the seafarer's possession at all times.

The Committee further notes with interest that the definition of seafarer as reflected in the Regulations and Instructions has been expanded to include "a citizen of the Russian Federation who is a seafarer by virtue of the provisions of Convention No. 108 concerning Seafarers' National Identity Documents, 1958".

The Committee requests the Government to keep it informed on the progress concerning the repeal of paragraphs 9 and 10 of the Regulations, and the consequent changes to the Instructions, and to forward a copy of the relevant texts to the Committee when these amendments have been completed.

[The Government is asked to report in detail in 2002.]

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In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, China* (Hong Kong Special Administrative Region), *Djibouti, Estonia, Guinea-Bissau, Islamic Republic of Iran, Iraq, Mauritius, Portugal, Russian Federation, Seychelles, Sri Lanka, United Republic of Tanzania.*

Convention No. 111: Discrimination (Employment and Occupation), 1958

Afghanistan (ratification: 1969)

1. Over several years, the Committee has noted with increasing concern the deteriorating situation in Afghanistan and the communications of the International Confederation of Free Trade Unions (ICFTU) alleging grave violations of the Convention by the Taliban authorities. The Committee expressed its growing outrage at

the persistence of gross and systematic violations of human rights in Afghanistan, particularly the severe restrictions on women's education, of all types and at all levels, and on their employment outside the home. The impact of these restrictions has been felt most profoundly in urban areas where women previously worked in all sectors of employment, including in scientific, academic and technical fields as well as in government positions. The Committee noted that the explicit policy of discrimination against women resulted in women's widespread poverty, low literacy levels, lack of opportunities to participate in public life and limited access to heath-care facilities, as well as beatings and public humiliation. The Committee had also commented on severe discrimination in employment (on the basis of political opinion) against intellectuals, community leaders, former army officers and civil servants, and on the need to protect members of ethnic minorities from discrimination in employment and occupation.

2. The Committee is aware of the changing situation in Afghanistan and hopes that the recent negotiations will lead to peace, recovery and reconstruction. Noting the statement of the Secretary-General of the United Nations that it will be necessary to make previously excluded groups, particularly women, full participants, the Committee points to the importance of making the application of the Convention an integral part of this process. The principle of non-discrimination on the basis of race, colour, sex, religion, political opinion, national extraction or social origin and the promotion of equality, as provided for in the Convention, is fundamental to rebuilding a multi-cultural society on the foundations of respect and tolerance. The Committee, therefore, urges the new authorities to assume full responsibility under the Convention and to take measures to prohibit discrimination on all grounds covered by the Convention. The Government is particularly urged to repeal all laws and regulations enacted by the Taliban authorities, restricting the access of women and girls to education and employment, which is contrary to the Convention.

3. The Committee hopes that the recent developments will soon lead to political stability and the establishment of institutions truly reflecting the diversity of the country and conducive to ensuring that the protection afforded by the Convention is fully enjoyed by all working men and women in Afghanistan. It urges the authorities to make every effort to declare and pursue, in law and practice, a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation as envisaged under *Articles 1 and 2 of the Convention*. The Committee would be grateful if the authorities would provide information in future on measures taken or planned in this respect and draws their attention to the possibility of having recourse to the technical cooperation of the International Labour Office.

Algeria (ratification: 1969)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. *Discrimination on the basis of religion.* In its previous observation, the Committee noted that the Constitution had been amended in November 1996 and raised the question whether articles 29 (equality before the law, without any discrimination on grounds of birth, race, sex, opinion or any other personal or social condition or circumstance), 32 (guarantee of fundamental freedoms and human rights), 33 (guarantee of protection of fundamental human rights for individuals and associations, and of individual and collective freedoms) and 36 (inviolability of freedom of conscience and freedom of opinion), read together.

guaranteed constitutional protection against religious discrimination. Noting that the Government's report does not touch on this question, the Committee would be grateful if the Government would confirm or repudiate this interpretation and repeats its request for copies of all court decisions concerning these articles.

2. *Discrimination on the basis of sex.* The Committee notes that, in 1997, the Government adopted two Decrees: the first on part-time work (No. 97-473 of 8 December 1997) and the other on home workers (No. 97-474 of 8 December 1997). The principal aim of these texts is to allow such workers, primarily women, to contribute to the social security scheme and thus be entitled to social insurance. While appreciating that the abovementioned provisions contribute to improving the employment conditions of these workers, the Committee requests the Government to indicate the measures taken or envisaged to ensure that the proliferation of "atypical" employment relations, several of which are prejudicial to income and job security, do not unduly disadvantage women on the labour market.

3. The Committee notes the detailed information supplied by the Government, in response to its earlier comments, on the efforts that it is making to develop education for young girls, combat illiteracy among women and provide training so that they may obtain qualifications. It also notes the Government's statement that despite incorporating equality between men and women into the legislative and regulatory texts governing the world of work, in practice, women are still confronted with discrimination in the field of employment resulting from stereotypes which exist regarding a woman's place in society. It therefore encourages the Government to continue its efforts to further its national policy of promotion of equality of opportunity and of treatment in respect of employment and occupation.

4. The Committee is addressing a request on certain other points directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Bolivia (ratification: 1977)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

1. *Discrimination on grounds of sex.* For many years, the Committee has been referring to section 3 of the General Labour Act, under which the proportion of women staff may not exceed 45 per cent in enterprises and establishments which, by their nature, do not require the use of a larger proportion of women workers. The Committee had noted that this provision was prejudicial to equality of opportunity and treatment on grounds of sex and expressed the hope on many occasions that the revision of the General Labour Act would make it possible to comply with the Convention in relation to the equality of men and women in access to employment and occupation. The Government had previously indicated its intention of revising the Act, and then indicated that the draft of a new General Labour Act had been set aside and that, in the context of the programme of national dialogue initiated by the Government, it had been proposed to establish the parameters for future labour legislation. The Committee notes that, in its last report, the Government states that the General Labour Act remains in force and that there does not appear to have been any progress in amending it. It also notes that, according to the report, the types of enterprises and establishments which, by their nature do not require the use of women workers, include heavy transport and similar enterprises where the objective is that women should not suffer physical or psychological injury, nor damage to their reproductive capacity.

2. The Committee reiterates that this provision is not compatible with *Article 3(c) of the Convention* and requests the Government to take measures to review and amend it. It also recalls that maternity protection measures are intended to protect the maternal function,

and are not considered to be in violation of the Convention pursuant to *Article 5*. With reference to *paragraph 5 of the ILO resolution on equal opportunities and equal treatment for men and women in employment*, adopted in 1985, the Committee hopes that the Government will take measures to re-examine, in the light of up-to-date scientific knowledge and technical changes, all protective legislation applying solely to women with a view to revising and repealing it, as appropriate, taking into account measures aimed at promoting equality in employment between men and women. This revision should be carried out in consultation with the representatives of employers' and workers' organizations, and with the participation of women workers. The Committee requests the Government to provide information on the measures adopted in this respect and the progress achieved.

3. The Committee is addressing a request directly to the Government on another point.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Bosnia and Herzegovina (ratification: 1993)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

1. The Committee recalls that, at its 276th Session (November 1999), the Governing Body of the ILO approved the report of the Committee set up to examine the representation alleging non-observance by Bosnia and Herzegovina of Convention No. 111, made under article 24 of the ILO Constitution, by the Union of Autonomous Trade Unions of Bosnia and Herzegovina (USIBH) and the Union of Metalworkers (SM) and entrusted follow-up of its recommendations to the Committee of Experts (see GB.276/16/4, paragraph 23). According to the Committee of the Governing Body, the facts alleged by the USIBH and the SM – which were not contested by the Government – namely, the dismissal of workers solely on the grounds of their Serbian or Bosnian origin and their replacement by workers of Croatian origin, were corroborated by a consistent body of evidence. The Governing Body Committee therefore considered that the facts constituted a violation of Convention No. 111, since the type of discrimination described in the representation is of the kind prohibited by *Article 1(a)* of that instrument, in that it involved an exclusion based solely on national extraction or religious belief which had the effect of destroying equality of opportunity and treatment in employment and occupation between workers of Croatian extraction and the workers of Bosnian or Serbian extraction employed by the "Aluminium" and "Soko" undertakings. Although the representation refers only to Convention No. 111, the Governing Body Committee considered that the alleged facts also violated certain provisions of the Labour Inspection Convention, 1947 (No. 81), and the Termination of Employment Convention, 1982 (No. 158), both ratified by Bosnia and Herzegovina. The Committee of Experts therefore requested the Government to supply information on the manner in which it intended to apply the recommendations of the Governing Body Committee.

2. The Committee recalls that it had requested the Government to indicate in its next report the measures taken to ensure that the workers dismissed from the "Aluminium" and "Soko" factories solely on the grounds of their Bosnian or Serbian extraction or their religion: (a) receive adequate compensation for the damage that they have sustained; (b) receive payment of any wage arrears and any other benefits to which they would be entitled if they had not been dismissed; and (c) are as far as possible reinstated in their posts without losing length of service entitlements. It had also requested the Government to indicate whether a formal dismissal procedure, in accordance with the provisions of Convention No. 158, which has been ratified by Bosnia and Herzegovina, had been

instituted, in the event that the reinstatement of all or some of the workers in question was not possible.

3. The Committee notes the communications sent to the Office by two workers' organizations during the past 12 months under article 23, paragraph 2, of the ILO Constitution: the first is from the Autonomous Trade Union of Employees of the "Aluminium" Factory at Mostar in the Federation of Bosnia and Herzegovina (one of the two entities comprising Bosnia and Herzegovina) and consists of the workers *currently* employed by this factory; while the second communication is from the USIBH and the trade union organization of the iron mine "Ljubija", at Prijedor, in the Republika Srpska (the other constituent entity of Bosnia and Herzegovina).

4. Before addressing the communications the Committee considers it appropriate to note the adoption by the Federation of Bosnia and Herzegovina of a new Labour Code on 27 October 1999 (Act No. 271/1999) and particularly the content of sections 143 and 144, as amended in August 2000, concerning the severance pay due to workers who lost their employment because of the conflict which ravaged the country from 1992 onwards. Under section 143, a formal dismissal procedure must be initiated once a worker registered on the waiting list is still without employment six months after the date of entry into force of the new Labour Code (5 November 1999) or when a worker "on hold" (that is, who, at 31 December 1999, had found employment but requested clarification of his occupational status from his former employer in the three months following the entry into force of the Labour Code) so requested. Since the workers concerned had at least five years' service, they will be entitled to severance pay calculated on the basis of the number of years of service and the average salary applied in the civil service of the Federation of Bosnia and Herzegovina. Sections 143(a), (b) and (c) describe the recourse open to workers who consider that their employer has violated the rights described in section 143 and provide, in particular, for a Cantonal Commission and a Federal Commission responsible for implementation of section 143. Section 144 affirms the entitlement of workers whose employment was "suspended" under the terms of the legislation in force before the entry into force of the new Labour Code (a suspension which is not recognized by the current Labour Code) to return to their former jobs or to other appropriate jobs within six months from the day of entry into force of Act No. 271/1999.

5. *Communications of the Autonomous Trade Union of Employees of the "Aluminium" Factory.* This organization states in its communication that (a) the adoption on 28 October 1999 of a new Labour Code, in particular sections 143 and 144, settles the problems raised by the USIBH in its representation concerning the workers who were unable to resume their employment at the end of the civil war because USIBH itself, citing sections 143 and 144, has brought this matter before the managers of the factory "Aluminium" who are in the process of examining it; and (b) that, if the recommendations of the Committee were to be implemented, the workers who were not covered by the USIBH representation would not have the same rights as those to whom the Committee's recommendations were applied. On the one hand, there would be the former employees of the factory "Aluminium" who are currently unemployed and are of Croatian national extraction and could benefit only from application of the abovementioned provisions of the Labour Code; and, on the other, the former employees of the same factory, who are currently unemployed, but who would be able to benefit both from the new provisions of the Labour Code and from the recommendations of the ILO Governing Body Committee.

6. The Committee notes with interest the provisions of the new Labour Code which are designed to provide various levels of compensation to workers who lost their employment during the civil war. In the absence of information from the Government indicating how the managers of the "Aluminium" and "Soko" undertakings intend to link the application of the recommendations made by the ILO Governing Body with these new

provisions or of how these workers have actually been compensated, the Committee considers that it is too soon to affirm that the provisions in question settle conclusively the situation of workers in the "Aluminium" and "Soko" factories which made a representation to the ILO under article 24 of the ILO Constitution. In regard to the argument proffered by the Autonomous Trade Union of Employees of the "Aluminium" Factory, namely that workers having made a representation to the ILO Governing Body would benefit not only from payment of the compensation provided in the Labour Code but also from that recommended by the ILO Governing Body, the Committee must insist that it is for the various parties concerned – the Government, the management of the two undertakings, and the workers who made the representation – to apply the provisions of the Labour Code and the recommendations of the Governing Body in such a way that the workers of the "Aluminium" and "Soko" factories who were unable to resume their former employment – solely on the basis of their ethnic origin and/or religious beliefs – can receive appropriate compensation.

7. In the light of the foregoing, the Committee requests the Government to indicate in its next report the measures taken to ensure that the workers dismissed from the "Aluminium" and "Soko" factories solely on the grounds of their Bosnian or Serbian extraction or their religion: (a) receive adequate compensation for the damage they have sustained; (b) receive payment of any wage arrears and any other benefits to which they would be entitled if they had not been dismissed; and (c) are as far as possible reinstated in their posts without losing length of service entitlements. Finally, the Committee would be grateful if the Government would supply statistical data on the national extraction of the current workforce in the "Aluminium" and "Soko" factories.

8. *Communications of the USIBH and the trade union organization of the "Ljubija" iron mine.* According to these organizations, the managers of the mine in question dismissed all the miners who were not Serbs from the abovementioned mine, namely some 2,000 workers, during the civil war which ravaged the country from 1992 onwards. The numerous internal appeals brought by the dismissed workers have not resulted in their reinstatement and the USIBH has placed the matter before the competent bodies of the ILO. The communication was transmitted to the Government for comment on 10 November 2000. Without entering into the substance of the allegations, the Committee can do no more than note that the facts alleged by the USIBH are similar to those examined by the Governing Body Committee within the context of the abovementioned article 24, namely that there was dismissal (or non-reinstatement) of workers based solely on their national extraction: in the "Aluminium" and "Soko" mines, the dismissed workers were all of Serbian or Bosnian origin; in the "Ljubija" mine, the dismissed workers are apparently all of Bosnian or Croatian origin. The Committee trusts that in its next report the Government will make its comments in reply to these communications. In any event, the Committee wishes to recall that the principle of equality of opportunity and treatment in employment and occupation, laid down in *Article 1 of the Convention*, is of universal application; namely, it applies whatever the national extraction of the worker discriminated against: be it Bosnian, Croatian or Serbian. The Committee expresses the hope that it will be possible to resolve this case in accordance with the developments set out in paragraphs 4 to 6 above.

9. The Committee is aware of the complexity of the situation in Bosnia and Herzegovina and that the country has recently emerged from a civil war fuelled essentially by ethnic and religious conflict. It is convinced that one of the best means of promoting national reconciliation and peace is the establishment of the rule of law and the formulation and implementation of a genuine national policy of equality of opportunity and treatment in all spheres, including employment and occupation. The Committee therefore reiterates the hope that a genuine national policy to promote equality of opportunity and treatment in respect of employment and occupation will be formulated and implemented so as to eliminate all discrimination in this sphere – as called for under *Article 2* of the Convention –

and that the Government will supply detailed information on the measures taken or envisaged in this connection in its next report. It also hopes to receive information on the measures taken to inform and train magistrates, labour inspectors and all other public servants concerned in the application of the Convention and trusts that the Government will send it a copy of the Ombudsman's most recent report, taking into account his action in favour of human rights and the institution of the rule of law, referred to by the United Nations Committee for the Elimination of Racial Discrimination in Decision 6(53). Finally, the primary responsibility incumbent on the State to define and apply a national policy of equality of opportunity and treatment should not make it forget the essential role which must be played by employers' and workers' organizations in the promotion and application of the principle at the workplace, and the Committee would be grateful if the Government would supply detailed information on its methods of cooperation with employers' and workers' organizations to encourage acceptance and observance of this policy.

10. The Committee refers also to the comments made under Conventions Nos. 81 and 158.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Brazil (ratification: 1965)

1. The Committee notes the report of the Government and the attached documentation. The Committee recalls its previous comments concerning discrimination on the grounds of sex, race, and colour, in which it noted with interest legislative and practical measures taken by the Government to implement the principles of the Convention. With reference to *Article 3(f) of the Convention*, the Committee noted that sufficient time had elapsed to warrant an initial assessment of the progress achieved in eliminating employment-related discrimination in the country. In this context, the Committee notes the discussions on the application of the Convention by Brazil in the Committee on the Application of Standards of the International Labour Conference at its 88th Session in 2000 and recalls the observations submitted by the Inter-American Trade Union Institute for Racial Equality (INSPIR) on 6 November 2000 containing allegations that the public recognition of racial inequalities by the Government was not followed by appropriate government action to produce results.

2. The Committee notes with interest from the Government's report that a new section 216-A, which makes sexual harassment punishable as a crime, has been included in the Penal Code by Act No. 10.224 of 15 May 2001. The section provides that officials who use their higher position or ascendancy inherent in the exercise of their duties, post or office to pressure another person for the purpose of obtaining sexual advantage or favours shall be punished with one to two years of detention. The Government is asked to provide information on the application and impact of the new legislation.

3. As regards the position of women in the labour market, the Committee notes from the Brazilian National Report on the Implementation of the Platform for Action of the Fourth United Nations World Conference on Women prepared for June 2000 (Beijng+5) that, while women's participation grows and they have greater occupational mobility, occupational segregation and the gender wage gap persist and the rate of women in unemployment has risen. The Committee notes also the statement of the

Government that the situation of black women is often characterized by multiple discrimination on the basis of sex, race and colour.

4. The Committee notes the information contained in the Government's report concerning the situation of racial and ethnic minorities in the labour market. According to a survey cited by the Government 90 per cent of Brazilians living under the poverty line are black or mulatto and 60 per cent of the mulatto and black population work in the informal sector, while that rate among the white population is 48 per cent. The illiteracy rate is 10.6 per cent among whites, 25.2 per cent among mulattos and 28.7 per cent among the black population.

5. The Committee had previously welcomed the promulgation of Act No. 9799 of 1999 which includes provisions prohibiting discrimination on the basis of sex, age, colour and family status, including pregnancy, in respect of access to employment, vocational training and terms and conditions of employment. The Act also contemplates the adoption of temporary measures to establish policies designed to correct inequalities that affect women in employment and occupation. The Committee requested the Government to provide information on measures adopted in this regard, as well as information regarding the application of Act. No. 9799 and its impact on the position of women and racial and ethnic minorities in the labour market. The Committee notes the announcement by the Ministry of Labour and Employment in July 2001 that 20 per cent of the budget of the Worker's Assistance Fund (FAT), which was R$8.7 billion in 2000, would be invested in occupational training for the black and mulatto population, with preference given to women. The Committee requests the Government to continue to provide information on the implementation of this initiative and details on other specific measures taken to prevent discrimination on the grounds of sex, race and colour and to promote racial and gender equality, including positive action in respect of access to education, training and employment.

6. With respect to securing the acceptance and observance of the national equality policy, the Committee previously noted the National Programme of Human Rights, the campaign "Brazil, Gender and Race – United for Equal Opportunities" and the establishment of Centres for the Prevention of Discrimination in Employment and Occupation, which undertake promotional activities and receive complaints. The Committee notes from the report that as of August 2001, 58 such centres have been set up throughout the country and that the target adopted by the federal Government is that in 2002 there will be a centre in each regional labour delegation or sub-delegation. The Committees notes that the centres are carrying out activities in cooperation with black rights' defence groups to raise awareness in society at large about discrimination against blacks and to make black workers themselves aware of discrimination against them. The Committee also notes the efforts by these centres to promote racial equality and diversity through negotiations with employers' associations and managers in the various branches of activity where black workers are absent. Recalling the observations of INSPIR, the Committee requests the Government to provide detailed information on the impact of these awareness-raising measures on improving the position of women and blacks in employment and on their terms and conditions of work.

7. The Committee notes that the Centres for the Prevention of Discrimination in Employment and Occupation receive complaints about discriminatory practices in employment and occupation. While noting that the number of complaints made to the

centres has recently increased, the Committee observes that the number of discrimination complaints based on sex, race or colour remains relatively low. In the first half of 2001, the majority of complaints were based on disability discrimination, there were only four complaints because of racial discrimination (0.1 per cent) and 103 complaints of sex discrimination (3 per cent). The Committee notes the indication of the Government that this is due to the difficulties in obtaining corroborating evidence of discrimination in such cases. The Committee points out that such evidentiary difficulties should not operate to bar the filing and pursuit of complaints. In this regard the Committee underscores the importance of establishing accessible and effective complaint mechanisms, procedures and remedies for victims of discrimination on grounds of sex and race. It also recalls the importance of promoting legal literacy campaigns to create awareness of workers' rights and the existence of complaint mechanisms. The Committee requests the Government to continue to provide information on the nature and outcome of complaints involving discrimination on the basis of sex or race examined by the Centres for the Prevention of Discrimination in Employment and Occupation, including the number of cases that have been submitted to the public prosecutors.

8. As regards the assessment of the impact of legislative and practical measures taken to improve the situation of women and ethnic and racial minorities in the labour market, the Committee notes that the Minister of Labour and Employment, by issuing Order No. 1.740 of 26 October 1999, decided to include in the report forms for the Annual Social Information Report (RAIS) and the General Record of Employment and Unemployment (CAGED) information on race and colour of persons concerned. While welcoming this information, the Committee once again requests the Government to provide full information in its next report, including statistical data, on the situation of women and the indigenous, black and mestizo population in employment and occupation, including access to vocational guidance, vocational training and employment, as well as on the impact of the Government's equal opportunity policy in this respect.

The Committee is addressing a request directly to the Government on other points.

Chad (ratification: 1966)

The Committee notes the Government's report and the documentation attached.

1. The Committee recalls the communication from the Trade Union Confederation of Chad (CST) of 27 June 1997 alleging non-application by Chad of the principles of equality in employment and occupation for women workers. According to CST, the Government had taken no concrete measures to facilitate access of women to public and private employment, despite the several provisions in the 1996 Constitution aiming at the elimination of all forms of discrimination against women. The CST further referred to the technical shortcomings of the ministerial departments responsible for the promotion of women and the need for data collection and comparative research on the employment situation of women. The Committee notes the Government's reply indicating that the application of the Convention is guaranteed by the Constitution. The Government also states that there is a general lack of means to equip ministerial departments adequately, hence the Ministry responsible for the promotion of women is not the only body affected. The Government believes that the collection of data is only a

partial solution as regards the application of the Convention and that poverty remains a major obstacle.

2. The Committee recalls that the existence of constitutional protection in respect of the principles of the Convention is, in itself, not sufficient to constitute a national policy for the promotion of equal opportunity and treatment in employment and occupation, as required under *Articles 2 and 3 of the Convention*. Noting that article 13 of the Constitution provides for equal rights and duties of men and women and that article 14 establishes equality before the law without distinction and the explicit obligation of the State to watch over the elimination of all forms of discrimination against women and to protect their rights in all spheres of private and public life, the Committee stresses again that the Convention, in addition to legislative measures, requires the Government to pursue the national policy through positive measures with a view to eliminating discrimination on the grounds contained in the Convention and to promoting equality. Noting that the Government has in fact adopted policies and objectives regarding the situation of women, including through Act No. 19/PR/95 of 4 September 1995 declaring a policy on the integration of women into development, the Committee asks the Government to provide information on the implementation of the various measures to promote equal access of women to training and employment in the private and public sector. The Committee shares the Government's view that the collection of statistical data is not an end in itself, but rather part of an effective policy to promote women's equality in employment, and allows for the taking of targeted action. Noting that the Government has provided information on the participation of women and girls in education, the Committee encourages the Government to make every effort to provide also statistical information on the distribution of men and women in employment in the private and public sector. The Committee also encourages the Government to continue to make all possible efforts to allocate adequate resources to the institutions and structures responsible for promoting women's equal education and employment, having in mind that the empowerment of women is fundamental to the development of society as a whole.

3. The Committee refers to its previous comment concerning article 32 of the Constitution, which states that no one can be discriminated against in their work on the grounds of origin, opinions, beliefs, sex or matrimonial situation, but does not include other grounds of discrimination set out in *Article 1(1)(a)* of the Convention, particularly race and colour. The Committee notes the statement of the Government that race and colour never were criteria for discrimination in Chad and that the legislator therefore simply omitted these terms in the Constitution. While stressing the equal importance of all grounds listed in the Convention, the Committee observes that the grounds of race and colour are of particular significance to promote and ensure equality of opportunity and treatment in employment and occupation in multi-ethnic societies. Recalling once again paragraph 58 of the Committee's General Survey of 1988 on equality in employment and occupation, where it stated that where provisions are adopted in order to give effect to the principles of the Convention they should include all the grounds of discrimination laid down in the Convention, the Committee hopes that the Government will consider amending article 32 of the Constitution or adopting legislation so as to bring it fully in line with the Convention. Noting from the report that the regulations enforcing the Labour Code will take into account the grounds of race and colour, the

Committee requests the Government to provide information on the progress made in this respect and to provide a copy of these regulations as soon as adopted.

In addition, the Committee is addressing a request directly to the Government on other questions.

Croatia (ratification: 1991)

The Committee notes the report of the Government. Referring to its previous observation concerning comments of the Union of Autonomous Trade Unions of Croatia (UATUC) related to discrimination in hiring on grounds of sex, age and ethnicity and to discrimination of women in the labour market, the Committee had noted that a gender analysis of legislation would be undertaken to determine its impact on women, including the extent to which it promotes equality and provides the necessary protection for working women. In this respect the Committee notes with interest the amendment of article 3 of the Constitution to include gender equality among the highest values of the constitutional order of Croatia and the amendment of section 3 of the Labour Act to provide that, when hiring workers, employers shall be obliged to give priority to the under-represented sex if candidates meet, in an equal manner, general and specific conditions for employment. The Government is asked to provide information on the application and impact of these new provisions on the situation of women and men as regards equal opportunity and treatment in employment and occupation, including their representation in jobs at the decision-making and management level. The Committee requests the Government to provide information on all measures taken to prevent discrimination and promote equality in access to jobs and employment security on grounds of race, national extraction and religion.

The Committee is raising other points in a request addressed directly to the Government.

Czech Republic (ratification: 1993)

The Committee notes the comments of the International Confederation of Free Trade Unions (ICFTU) received on 8 October 2001, which contain information concerning discrimination on the grounds of sex, national extraction and political opinion. The comments have been forwarded to the Government and the Committee will address them, together with any comments the Government may wish to make thereon, at its next session.

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> 1. *Discrimination on the basis of political opinion.* The Committee takes note of the detailed information contained in the Government's report concerning the application of Act No. 451 of 1991 (Screening Act) laying down certain political prerequisites for holding a range of jobs and occupations mainly in public institutions but also in the private sector. This Act was the subject of representations under article 24 of the ILO Constitution on two separate occasions (November 1991 and June 1994). In the decisions of these Governing Body committees, the Government was invited to repeal or modify the provisions in the Screening Act that were incompatible with the Convention. In this regard, the Committee recalls that the level of a certain post within a public or private organization may not be determinative as to whether political criteria can be applied in filling it and that what is

required is a careful and objective consideration of the inherent requirements of a job on a case-by-case basis. It also recalls that the exclusions imposed on persons for past activities should be proportional to the inherent requirements of a particular job.

2. In its report, the Government indicates that from the date the Act entered into force in 1991, 366,000 certificates were issued by the Minister of the Interior of which only 302 were unfavourable for the individuals concerned. In the year 1999, the Ministry of the Interior issued approximately 6,000 certificates of which 1.4 per cent were unfavourable. Persons who obtain an unfavourable screening certificate can appeal to a court of law and ask for review. In this respect, the Committee notes from the Government's report that no statistics are available on how many individuals appealed to the courts seeking a review of unfavourable screening certificates. It notes that the Government reiterates its intention not to extend the validity of the Act beyond 31 December 2000. It further notes that new legislation concerning the status of employees in the state administration is under preparation. The Committee requests the Government to confirm that the Screening Act has not been extended and it hopes that the new legislation envisaged will not contain provisions incompatible with the Convention.

3. *Discrimination on the basis of other grounds.* The Committee notes with interest that Act No. 167/1999 amended Act No. 1/1991 on employment, and that a new section 1 was introduced, which stipulates as prohibited grounds of discrimination in employment, race, colour, sex, sexual orientation, language, creed and religion, political and other opinion, membership and/or activities in political parties or political movements, national extraction, health condition, age, marital or family status or family responsibilities, except in cases where the law so provides or where there is a valid ground, vital for the performance of the job, inherent in prerequisites, requirements and nature of the job to be performed by the citizen concerned. The Government indicates that by moving the prohibition of discrimination from the preamble to section 1, it would be easier to enforce these provisions and to impose penalties in cases of its violation by employers. The Committee trusts that the Government will indicate the measures taken to ensure its application in practice, including statistical data of cases involving discrimination in employment and occupation.

4. The Committee notes that new institutions have been created including a Council for Human Rights, with a section for combating racism, and an Inter-ministerial Commission for Romany Affairs. The Committee takes note of the information supplied by the Government that a significant change in the state employment policy has taken place with the adoption of the National Employment Plan in May 1999, which will improve chances of job applicants belonging to vulnerable groups, including Roma job applicants. The Government indicates that it has taken a series of measures on the basis of this Plan, including employment promotion among the long-term unemployed, with emphasis on members of the Roma community and strengthening of legal and institutional tools and machinery designed to combat discriminatory practices in the labour market. The Committee also notes that a special committee was established in 1998 within the Ministry of Labour and Social Affairs to deal specifically with the problems of the Roma community and to improve their situation in the labour market. This committee involves representatives from other ministries as well as Roma employers and associations and concentrates on education, employability and employment. Different measures to promote employment and projects aimed at increasing Roma employment are mentioned in the Government's report, in particular a specialized training programme for social workers that trained 34 unemployed Roma. The Committee also notes the information supplied by the Government regarding the different educational programmes and measures implemented to address the educational needs of Roma children. These programmes include the opening of a secondary school for Roma children where 50 of them are enrolled; assistance to integrate Roma school leavers into social life; measures to train young Romas in different occupations or to continue their

general education and integration; hiring Roma educational assistants to participate in language teaching and resocialization activities.

5. The Committee also notes the information contained in the report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance (19-30 September 1999), submitted pursuant to the Commission on Human Rights resolution 1998/26 (E/CN.4/2000/16/Add.1). The document points out that both Czech authorities and representatives of non-governmental organizations and Roma community associations admit that the Roma continue to be victims of intolerance and discrimination, particularly regarding employment, housing, education and access to public places. Some employers consider them to be "lazy" or "irregular in their jobs", so that even when they have the necessary qualifications, they are not hired. Statistics compiled by the Council of Nationalities indicates that 70 per cent of the Roma are unemployed and this figure is as high as 90 per cent in certain areas, while the general unemployment rate is 5 per cent. Regarding education, the Special Rapporteur indicates that the educational system tends to relegate Roma children to "special" schools, considered by some to be institutions for the mentally handicapped or for children suffering from what is regarded as asocial behaviour. The Government estimates that 70 to 80 per cent of Roma children attend institutions of this type. As a result, a large number of Roma children leave school without the necessary primary education since special schools are not considered complete primary schools. Uncompleted primary schooling makes studies at secondary school level or in regular apprenticeship impossible. The lack of qualifications among adult Roma is one of the main reasons for their difficulties finding jobs, their dependence on social benefits, and the general marginalization of the entire Roma community.

6. The Committee stresses that the elimination of discrimination in employment and occupation, on all grounds, including national extraction, is critical to sustainable development, all the more so because of the re-emergence of signs of intolerance and racism in some countries. The Committee urges the Government to take measures to improve significantly the Roma's access to training, education on the same basis as others, as well as to employment and occupation, and to take steps to raise public awareness of the issue of racism in order to promote tolerance, respect and understanding between the Roma community and others in society. It hopes the Government will be able to report progress in positively addressing the serious problems facing Romas in the labour market and in society in general.

7. With reference to its previous comments concerning Act No. 216 of 10 July 1993, which amended the 1990 Higher Education Act, and required the holding of competitions for all jobs of higher education teachers, scientific workers and managers of educational and scientific higher education establishments, the Committee notes from the Government's report that this Act has been abolished and replaced by a new Act on higher education. The Committee however notes that the new Act, under section 77, provides that positions of teachers in public institutions of higher education are to be filled by competition. The Committee asks the Government to indicate whether the new competition procedure has eliminated political opinion as an element to consider in the selection of candidates.

8. Further to previous comments, the Committee requests the Government to provide information on the practical impact of the measures taken to promote equality between women and men in employment and occupation and to raise awareness of girls and young women about employment and training opportunities available to them beyond those considered "typically female" occupations.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Ecuador (ratification: 1962)

The Committee notes the information in the Government's report.

1. With reference to its previous observations, the Committee notes that the Government has provided no information on the reform of the Cooperatives Act, specifically regulation 17(b) issued under the Act, by virtue of which married women need the authorization of their husbands to be members of housing, agricultural and family vegetable garden cooperatives. The Committee hopes this regulation will be amended in the near future and requests the Government to report on developments in the activities of the board of the National Council for Women (CONAMU) and the Standing Committee for Women, Youth, Children and the Family, and especially on how the reform is progressing.

2. With reference to its previous observations concerning the amendment of a number of provisions of the Cooperatives Act and the Commercial Code, namely section 12 of the Cooperatives Act and sections 12, 66, 80 and 105 of the Commercial Code which impose restrictions on women, the Committee notes that the abovementioned provisions have been found unconstitutional. The Government states that all decisions of the Constitutional Tribunal are indeed binding and that the latter is free to amend any provision issued by the Executive, Legislature or Judiciary which is in breach of the principles of the Constitution, and such an amendment is beyond challenge. The Committee considers that the best means of averting any uncertainty as to the legislation in force is to repeal or amend the provisions found to be unconstitutional by the Tribunal, and hopes the Government will take the necessary steps to that end. Meanwhile, the Committee asks the Government, in order to secure greater certainty in law, to provide information on the manner in which the public is made aware of the change in law.

3. The Committee has been noting for years that, despite the efforts to eliminate the last vestiges of racial discrimination, they still exist in practice. The Committee notes the Operational Plan of Action for 1999-2003 on the Rights of the Indigenous Nationalities and Peoples of Ecuador, and observes that the Government intends to set up machinery to improve living conditions and implement programmes to promote economic growth as well as providing the indigenous communities with the means and tools they need for production. The Committee notes that no information has been provided on the Afro-Equatorian communities. It therefore reiterates its request and asks the Government to provide information on the measures adopted or planned to eliminate discrimination and promote equality in employment and occupation for the indigenous peoples and Afro-Equatorian communities.

The Committee raises other points in request addressed directly to the Government.

Eritrea (ratification: 2000)

1. The Committee notes that at its 282nd Session (November 2001), the Governing Body of the ILO approved the report of the tripartite committee set up to examine the representation alleging non-observance of Ethiopia of Conventions Nos. 111 and 158, made under article 24 of the ILO Constitution by the National Confederation of Eritrean Workers (NCEW). The complaint concerned allegations of

deportations of Ethiopians of Eritrean origin and Eritreans legally established and residing and working in Ethiopia in violation of these Conventions. The Governing Body concluded that large-scale deportations of persons including workers from Ethiopia to Eritrea and vice versa occurred following the outbreak of the border conflict in May 1998 and that it must consider the situation in its broader context, while making it clear that in doing so that only Ethiopia was bound at that time by Conventions Nos. 111 and 158. The Governing Body invited the Committee of Experts to review the situation in respect to Eritrea when the Government reports on the application of Convention No. 111, which entered into force for Eritrea on 22 February 2001 (see GB.282/14/5).

2. This Committee follows the Governing Body in welcoming the fact that the Governments of Ethiopia and Eritrea and their social partners have expressed a desire to reach a peaceful solution to the border dispute between the two countries, reaffirming their acceptance of the OAU framework agreement and modalities for its implementation. The Committee also notes the establishment, under the Algiers Agreement of 12 December 2000, of a claims commission with jurisdiction over claims of deportees and the Governing Body's view that it would be appropriate for the issues raised in the representation to be dealt with in the claims commission as it has powers to grant monetary and other appropriate relief.

3. In the light of the above, the Committee requests the Government to include in its first report on the application of the Convention, which is due in 2002, information on the measures taken to ensure that there is no discrimination against Ethiopian workers and Eritreans of Ethiopian origin on the grounds of political opinion and national extraction, as well as on the following points: (a) the cooperation with the Government of Ethiopia and social partners in the operation of the mechanisms created in the Algiers Agreement of 12 December 2000, in particular on claims submitted to the claims commission and any decisions reached by the latter; (b) the measures taken, in line with any decision of the claims commission, to remedy as fully as possible the situation of the displaced workers and to grant appropriate relief; and (c) the measures taken to provide for an effective right of appeal for those persons that may be accused in future of engaging in activities prejudicial to the security of the State.

Ethiopia (ratification: 1966)

1. The Committee notes that at its 282nd Session (November 2001), the Governing Body of the ILO approved the report of the tripartite committee set up to examine the representation alleging non-observance by Ethiopia of Conventions Nos. 111 and 158, made under article 24 of the ILO Constitution by the National Confederation of Eritrean Workers (NCEW). The complaint concerned allegations of deportations of Ethiopians of Eritrean origin and Eritreans legally established and residing and working in Ethiopia in violation of these Conventions (see GB.282/14/5).

2. The Governing Body concluded that large-scale deportations of persons including workers from Ethiopia to Eritrea and vice versa occurred following the outbreak of the border conflict in May 1998, and noted that expulsion from the country would have the effect of discrimination in employment and occupation, in so far as it was based on a ground prohibited under Convention No. 111 and resulted in loss of employment and related benefits, and was not otherwise permitted under the Convention. The Governing Body pointed out that the substantive and procedural

protections set forth in *Articles 1 and 4 of the Convention* apply to all workers regardless of their nationality or citizenship and concluded that at least some of the deportations constituted discriminatory acts within the meaning of *Article 1(1)(a)*, and did not meet the requirements of *Article 4*. The Governing Body accordingly decided that, in so far as the expulsions that took place were based on national extraction or political opinion, they constituted violations of these Conventions. It invited the Government of Ethiopia to continue to provide information on the situation of Eritrean workers and employers in Ethiopia in its reports under Conventions Nos. 111 and 158 under article 22 of the ILO Constitution, so that the Committee of Experts can continue to examine this matter (see GB.282/14/5, paragraph 40).

3. This Committee follows the Governing Body in welcoming the fact that the Governments of Ethiopia and Eritrea and their social partners have expressed a desire to reach a peaceful solution to the border dispute between the two countries, reaffirming their acceptance of the OAU framework agreement and modalities for its implementation. The Committee also notes the establishment, under the Algiers Agreement of 12 December 2000, of a claims commission with jurisdiction over claims of deportees and the Governing Body's view that it would be appropriate for the issues raised in the representation to be dealt with in the claims commission as it has powers to grant monetary and other appropriate relief.

4. Noting that the Government of Ethiopia has reaffirmed its acceptance of the principles enshrined in Conventions Nos. 111 and 158 and its willingness to promote and implement a policy of equality of opportunity and treatment in employment and occupation, the Committee requests the Government to provide in its next report information on: (a) the situation of Eritrean workers and employers in Ethiopia as regards their protection from discrimination based on political opinion and national extraction; (b) the cooperation with the Government of Eritrea and social partners in the operation of the mechanisms created in the Algiers Agreement of 12 December 2000, in particular on claims submitted to the claims commission and any decisions reached by the latter; (c) the measures taken, in line with any decisions which may be taken by the claims commission, to remedy as fully as possible the situation of the displaced workers in accordance with the provisions of Conventions Nos. 111 and 158 and to grant appropriate relief; and (d) the measures taken to provide for an effective right of appeal for those persons who may be accused in future of engaging in activities prejudicial to the security of the State.

The Committee is addressing a request directly to the Government on other points.

Guatemala (ratification: 1960)

The Committee notes the information contained in the Government's report.

1. The Committee observes that for more than ten years it has been pointing out the need to reform the labour legislation in order to effectively ensure equality of opportunity and treatment in employment and occupation. It notes that the relevant provisions have not yet been amended although the draft labour code and draft labour procedure code have been submitted to the Congress of the Republic. Article 14bis of the Labour Code prohibits discrimination based on the grounds of race, religion, political beliefs and economic situation, but does not cover the other grounds provided for in the Convention (colour, sex, national extraction or social origin). The Committee recalls

that, although the Convention allows flexibility as regards the process of formulating policy on equality and the form in which measures to achieve the principle of equality are applied, establishment of the principle in a country's basic law does not, on its own, amount to an equal opportunities policy. An express guarantee of equality of opportunity and treatment in employment and occupation and a prohibition of discrimination on the grounds set out in the Convention is called for under the Convention. Furthermore, the Committee is of the view that any provisions adopted to give effect to the principle of this instrument should encompass all the grounds set out in *paragraph 1(a) of Article 1 of the Convention*. In this connection, the Committee refers the Government to paragraph 58 of its General Survey of 1988 on equality in employment and occupation, and paragraphs 206 to 208 of the Special Survey of 1996 on equality in employment and occupation.

2. The Committee observes that the Government's report contains no information on the national policy to promote equality of opportunity and treatment in employment and occupation. The Committee reiterates its request that the Government provide information on the Action Plan for Social Development and the Construction of Peace, 1996-2000, specifically on the practical application and results obtained, together with information on the measures it has taken or plans to take in the future, including any new plans that may have been drawn up to promote equality of opportunity and treatment in employment and occupation.

The Committee is addressing a request directly to the Government on other points.

Guinea (ratification: 1960)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the information contained in the Government's report. Referring to its previous comments concerning the public service, the Committee notes that the Government repeats the indication contained in earlier reports that the Civil Service Act is still in the process of being revised. In this regard, the Committee once again expresses the hope that the Government will amend section 20 of the Order of 5 March 1987 on the general principles of the public service (which prohibits discrimination only on the basis of philosophical or religious views and sex). The Committee recalls that, where provisions are adopted to give effect to the principle of non-discrimination contained in the Convention, they should include all of the grounds set forth in *Article 1(1)(a) of the Convention*.
>
> The Committee is addressing a request directly to the Government on other points.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Honduras (ratification: 1960)

The Committee notes the information contained in the Government's report.

With reference to the comments of the Unitary Confederation of Honduran Workers (CUTH) alleging instances of discrimination and sexual harassment, the Committee notes the promulgation of Decree No. 34-2000 of 11 April 2000, approving the Equal Opportunities for Women Act. It notes that, in respect of equality of opportunity in work and social security, the Act affords women workers the following protection, inter alia: pregnancy testing may not be set as a prerequisite for employment;

employment offers may not specify requirements based on sex, age, religion or marital status; effective protection of women during pregnancy is promoted; women workers infected by HIV/AIDS are protected; equal participation by women at all levels of public administrations is promoted; and penalties are established for the discriminatory acts in question. The Committee trusts that the adoption of this Act and the policies developed by the National Institute for Women, together with the other steps taken by the Government, will make an effective contribution to preventing, eliminating and punishing any such actions as constitute a distinction, exclusion or preference based on sex, the effect of which is to nullify or impair equality of opportunity in employment and occupation. The Committee requests the Government to report on the application and effective observance of the new Act, providing more specific information as asked in the direct request.

The Committee raises other matters in a request addressed directly to the Government.

Islamic Republic of Iran (ratification: 1964)

1. The Committee takes note of the information provided by the Government in its report. It also notes the information provided during the discussion held in June 2001 in the Committee on the Application of Standards of the International Labour Conference. The Committee notes the discussion in the Conference Committee concerning the undertaking of a further mission by the Office to monitor the application of the Convention and to provide assistance in its implementation, and the acceptance of this proposal by the Government. The Committee of Experts notes that the mission is scheduled to take place the first half of 2002 and it looks forward to receiving a copy of the mission report for its examination and comment.

2. The Committee must point out that the information submitted by the Government this year is less than complete on the points that it has been raising for a number of years in respect of issues related to discrimination in employment and occupation on the grounds of sex and religion. It trusts that the upcoming mission will also serve to assist the Government to produce full and detailed information in its report next year in reply to the comments of the Committee, and on the basis of the report form on the Convention. Without such information, the Committee is unable to carry out its work and to continue dialogue with the Government on the application of the Convention.

3. The Committee notes resolution No. 2001/17 of the United Nations Commission on Human Rights, in which that Commission, inter alia, welcomed improvements in the field of women's education, health and democratic participation and the efforts made by the Sixth Majilis to improve the status of women and girls; however, the Commission was deeply concerned that many of these efforts have not yet been promulgated as law, which would be a step towards ending the systematic discrimination against women and girls in law and practice and the obstacles to the full and equal enjoyment by women and girls of their human rights. The Committee also notes that the Commission on Human Rights expressed its concern at the continuing discrimination against persons belonging to minorities and called upon the Government to eliminate all forms of discrimination based on religious grounds. The Committee further notes the interim report of August 2001 by the Commission's Special

Representative on the situation of human rights in the Islamic Republic in Iran to the 56th Session of the United Nations General Assembly (A/56/278), which stated that the status of women, particularly their legal status, remains highly discriminatory and that patriarchal attitudes are very much in evidence in the limited prospects for women in the labour force. The report also found that religious and ethnic minorities continue to face official and societal discrimination. The Committee notes the resolution of 20 November 2001 adopted by the United Nations General Assembly in which that body reiterated the points mentioned above which were made by the Commission on Human Rights and the Special Representative. The General Assembly also welcomed the process of legal reform under way in the country and encouraged the Government to continue this process.

4. *Mechanisms to promote human rights.* The Committee notes the re-establishment of the Majilis Human Rights Commission. It hopes that it will complement the work carried out by the Islamic Human Rights Commission to enhance the human rights situation and requests the Government to provide information on the mandate, functions and activities of this new institution. The Committee notes from the report that the Islamic Human Rights Commission has embarked on a programme of establishing a network of human rights defenders in the country. The Committee reiterates its request for information on the complaints mechanism of the Commission concerning discrimination on grounds of sex, religion or ethnicity, including details on the complaints and the outcomes of cases. Recalling that the Supervisory Commission on the Implementation of the Constitution has, as one of its stated operational objectives, the review of the interpretation of laws in accordance with international human rights instruments, including this Convention, the Committee once again asks the Government to provide further information on any activities of the Supervisory Commission which would promote the application of the Convention.

5. *Discrimination on the basis of sex.* The Committee recalls that in its previous observation it noted with interest information provided by the Government indicating a positive trend concerning women's education and training at the various levels. It notes with interest further statistical information provided by the Government, according to which the rate of participation of girls in primary schools is 47.6 per cent, in secondary schools 50.9 per cent and in technical schools 31.8 per cent in 2000-01. The Committee notes in particular that the ratio of girls at the primary and secondary levels has also considerably improved in rural and tribal areas. The Committee also notes the Government's intention to increase further the number of technical schools for girls and to introduce additional subjects of training for girls, and that 60 per cent of the students entering university for the academic years 1999-2000 were women. While being grateful for this information the Committee notes the importance of translating the educational opportunities into employment possibilities. The Committee requests the Government to provide information on: (a) the employment rate of female university graduates; (b) the sectors and areas of economic activity in which women graduates are employed; and (c) measures taken to integrate women graduates into the labour market, such as professional guidance and placement services. In order to facilitate job creation for women, the Committee notes that the Government has requested ILO technical cooperation to facilitate empowerment of women in the labour market and promote job creation for women, including the targeting of university graduates and female heads of

households. The Committee recalls the importance of such an initiative to the application of the Convention and asks to be kept informed of its development and implementation.

6. The Committee previously noted statistical information on the participation of women in the labour market. It noted that in 1997 the percentage of employed women was 12.1 per cent, and that in 1998 women accounted for 24.8 per cent of the workforce in the public sector. The Committee acknowledged the indication of a positive trend in these participation rates, but at the same time it pointed to the slow pace of improvement and the still low level of women's participation in employment. The Committee notes that in 1999, 30.3 per cent of all government employees were women, out of which 53 per cent held university degrees. The Committee also notes that the Government considers the absence of women in high-level economic decision-making as an obstacle encountered in the implementation of the Beijing Platform for Action. The Committee reiterates its requests to the Government to continue to provide as up-date as possible information on the labour market including the employment and unemployment rates of women and statistics on the private sector employment participation rates disaggregated by sex. It also reiterates that the next report should indicate the practical measures taken to tackle the attitudinal and other barriers to the full integration of women in economic life on an equal footing with men.

7. Further to its previous comments, the Committee notes that no information has been provided with regard to women in the judiciary, but it notes reports that proposals have recently been submitted to the Majilis for reforms to the judiciary. The Committee must once again point out that women are not allowed to fully participate on an equal footing with men in the judicial profession since they are not allowed to issue judicial verdicts. Please provide information on all measures taken, and results achieved, to review and remove this practice in order to establish equality between men and women in this profession, in accordance with the Convention.

8. The Committee must also refer to its previous comments on the obligatory dress code and the imposition of sanctions in accordance with the Act on Administrative Infringements for violations of the code. The Committee noted that any infringements of the code are dealt with through the use of notification procedures and that persistent infringements would result in escalated disciplinary procedures, but would not reach the level of dismissal. In the absence again of any reply of the Government to the Committee's requests in this respect, it once again recalls its concern over the negative impact that such a requirement may have on the employment of non-Islamic women in the public sector and reiterates its request for a complete copy of the Act on Administrative Infringements and for information on the application of the Act in relation to the dress code.

9. The Committee notes that no information has been provided on the status of the review of all laws concerning restrictions on women, such as restrictions on leaving the country for study without permission of the husband, and the resulting changes in or retention of such laws. It also notes that no action has been taken on the removal of section 1117 of the Civil Code under which a husband may bring a court action to object to his wife taking up a profession or job contrary to the interests of the family or to his or his wife's prestige. In this regard the Committee recalls that under the 1975 Protection of Family Act the right to make this objection is extended to wives as well as husbands. The Committee has been calling for the repeal of section 1117 of the Civil Code. Noting

the Government's commitment, as expressed its 2000 report on the implementation of the Beijing Platform for Action, to review and modify laws relevant to the human rights of women, the Committee once again expresses the hope that this review will encompass section 1117 of the Civil Code and the Committee's comments thereon. In the meantime, the Government is requested to provide information on the application in practice of these provisions.

10. The Committee also notes from the interim report of the United Nations Special Representative that the Bill to raise the marriage age of girls to 14 and boys to 17, which in the view of the Committee would have a positive impact on the access of women to educational and employment opportunities, has been rejected by the Guardian Council. The Committee requests the Government to provide information on any attempts again to put forward this law and on the results achieved.

11. *Discrimination on the basis of religion.* The Committee recalls that in the absence of a reference to non-discrimination on the basis of religion in section 6 of the Labour Code, the Committee has been monitoring the situation of religious minorities. The Government reports that the employment situation of the recognized religious minorities (Christians, Jews, Zoroastrians) is better than the national average. The Committee also notes the recent establishment by Presidential Decree of a National Committee for the Promotion of the Rights of Religious Minorities, which is to review the problems that religious minorities face and recommend corrective policies. The Government states that the representation of the minorities in the work of the Committee has been ensured. The Committee hopes that this Committee will review the problems of the non-recognized religious minorities and will include members of the non-recognized minorities in its work. The Government is requested to provide in its next report detailed information on the Committee's mandate, membership and activities relevant to the application of the Convention, including whether it covers non-recognized minorities. As the Committee had previously noted the statement that preference is given to Muslims in hiring practices, the Committee is bound to reiterate its previous requests to the Government to provide information on: (a) the education and employment situation of the members of recognized minorities, including statistical information disaggregated by sex; and (b) the measures taken to prohibit discrimination on the ground of religion.

12. The Committee refers to its comments over the years on the treatment in education and employment of members of unrecognized religions, in particular the members of the Baha'i faith. The Committee noted that the situation of the Baha'is goes beyond formal restrictions and exclusions, which may exist, and extends to the societal attitude towards the members of this group. The Committee noted further that there appears to be an effort to remove barriers in regulations and directives with respect to unrecognized religious groups and to promote greater tolerance for them, but that this process was expected to take some time. The Committee notes that once again the Government gives no indication as to measures taken in respect to discrimination in employment and occupation against members of the Baha'i faith or other unrecognized religions. It notes, however, from the interim report of the Special Representative that, according to his understanding, the Baha'i community continues to experience discrimination in education and employment and other areas. While recalling that the Committee previously noted that no formal restrictions on the hiring of members of unrecognized religions, including the Baha'i, appear to exist, but that in practice these persons may experience difficulty in access to education, jobs and occupations, the

Committee notes with some concern that according to information received by the Special Representative, the issuance of business licences to Baha'is has been delayed and that some stores and business owned by the Baha'is have been closed. The Committee also notes from the interim report that the Baha'is continue to be denied access to higher education in legally recognized public institutions. The Committee hopes that the Government will provide in its next report information on further measures taken to eliminate existing restrictions and exclusions in employment and education of the members of the Bahai's and other unrecognized religions in law and practice.

13. The Committee refers to its previous comments on the Act to exempt from the Application of the Labour Code workplaces and businesses of five or fewer employees. Recalling its concerns over the manner in which employees in exempted enterprises, in particular women and minorities, would be protected against discrimination in employment, the Committee notes from the information provided by the Government that the Act has not entered into force. The Committee also notes that efforts by the Government, including consultations with workers' and employers' organizations in 2001, resulted in the submission to Parliament of a Bill amending the Act in question and to consultations with newly elected deputies to protect women and minorities against discrimination. The Committee further notes that the social partners have concluded an agreement on employment and social protection in workplaces with five or fewer employees. The Committee requests the Government to provide information on whether the abovementioned Act has come into force. The Committee further requests the Government to provide information in its next report on the progress made in amending the Act and to provide a copy of the Bill as soon as adopted, as well as a copy of the text of the agreement concluded by the social partners concerning this question. The Committee would also appreciate receiving information on the outcome of the consultations held with the newly elected deputies.

14. *Tripartite consultation.* The Committee notes the holding of a National Tripartite Labour Forum and the establishment of a Supreme Council of Employment, with a tripartite structure and headed by the President, to address the issues of integrating a gender perspective into development as provided for under the third Five-Year Plan for Development. The Committee would be grateful to the Government to provide information on the work and initiatives of the Supreme Council, including their impact on non-discrimination and equality of men and women in employment and occupation.

15. With respect to the dissemination of information on the Convention, the Committee notes the holding of a Tripartite National Seminar on the Fundamental Labour Conventions of the ILO from 23 to 25 April 2001, with the participation of representatives of the Office, government officials, social partners, NGOs and representatives of the Islamic Human Rights Commission.

16. While once again acknowledging the stated objectives and intentions of the Government in respect of the application of the Convention, the Committee trusts that the Government will make every effort to continue to take concrete and practical measures towards the full application of the Convention, in law and in practice. The Committee urges the Government to provide detailed information on the points it has raised, in order to ensure the continuation of a meaningful dialogue. The Committee considers this dialogue to be of even greater importance in this case in which very

serious divergences between the Convention and the national situation had been noted for a number of years but, more recently, some progress has been marked in improving the situation.

Iraq (ratification: 1959)

The Committee notes with regret that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

> 1. With reference to its earlier comments, the Committee notes that, since 1992, it has drawn the Government's attention to its obligation under *Article 2 of the Convention*, noting that the Government's previous reports merely cite the provisions of the Iraqi Constitution and national legislation that express the guarantee of equality in employment for all citizens without discrimination on specified grounds in accordance with the Convention. The Committee has pointed out over the years that, under *Article 2*, the Government "undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof". As the Committee noted in its 1988 General Survey on equality in employment and occupation, affirmation of the principle of equality before the law may be an element of such a national policy, but it cannot in itself constitute a policy within the meaning of *Article 2*. Such a policy must: (1) be clearly stated, which implies the establishment of programmes set up for the purpose of promoting the policy; and (2) be applied, which implies the Government's implementation of appropriate measures pursuant to *Article 3* of the Convention (see General Survey, paragraphs 158 and 159). The Committee notes that the Government's report once again contains no concrete information in response to its earlier comments relating to the application of *Article 2*. It is therefore compelled once again to request the Government to specify the measures taken to implement the legislation.
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> 2. In its previous comments, the Committee had requested information on the application of *Article 2* in regard to Iraqi citizens belonging to the country's ethnic, religious and linguistic minorities, particularly the Kurdish and Turkoman minorities. It recalls that, in 1993, the Conference Committee on the Application of Standards had expressed deep concern over the situation of these minorities, asking the Government to provide information on their practical situation and on the manner in which these minorities are guaranteed equality of opportunity and treatment. The Committee regrets that, since that time, the Government has not sent sufficiently specific information permitting the Committee to form an opinion in this regard. The Committee also notes the concluding observations of the Human Rights Committee (61st Session, November 1997), which expressed concern regarding the situation of members of religious and ethnic minorities, particularly the Shi'ite people in the southern marshes and the Kurds (CCPR/C/79/Add.84, page 5, paragraph 20). Further, it notes that the United Nations Commission on Human Rights (54th Session, April 1998) calls on Iraq to cease immediately repressive practices aimed at Iraqi Kurds, Assyrians, Shi'a, Turkmen, the population of the southern marsh areas, and other ethnic and religious groups (E/CN.4/1998/L.85, pages 3-4, paragraph 3(h)).
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> 3. The Committee notes once again that, in its most recent report, the Government cites the Kurdistan Self-Rule Act No. 33 of 1974 in the context of national legislative texts expressing the principle of equality for all citizens without providing information on the manner in which these provisions are applied in practice. The Self-Rule Act only refers to workers' protection in relation to the Assembly's power to designate self-rule administration officers, stipulating that these should be Kurds or members of the other minorities (section 115). The Committee therefore reiterates its request that the Government provide concrete

and specific information on any policies, programmes or measures taken to ensure the application of the principle of non-discrimination to the Kurdish and Turkoman peoples as well as to the Shi'a and Assyrian minorities. It further requests information on the position of minorities in the labour market, their access to employment and occupations, job security and terms and conditions of work.

4. The Committee notes the Government's statement, in response to its earlier comments, that Decision No. 76 of 1993, suspending the application of Resolution No. 480 of 1989, remains in force. The Committee nevertheless recalls that Decision No. 76 expressly provides that Resolution No. 480 is suspended pending the promulgation of a subsequent resolution which will either repeal or reinstate Resolution No. 480. Accordingly, the Committee requests the Government to keep it informed with regard to any action taken concerning this resolution, which prohibits women in the state administration and in the socialist and mixed sectors from working in certain occupations.

5. The Committee once again requests the Government to supply statistics reflecting the number of women occupying posts of responsibility in the public sector in proportion to men, and their classifications. It also reiterates its request that the Government indicate whether it has implemented or contemplates implementing programmes designed to promote the employment of women, including employment in non-traditional occupations, and to provide information on the progress achieved in this regard.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Israel (ratification: 1959)

The Committee notes the amendments made in April 2000 to the Equal Rights for Women Act of 1951. It notes with interest new section 1B, paragraph 2 on affirmative action, which provides that any provision or act which is designed to rectify a former or existing discrimination against women, or a provision or act which is designated for the advancement of the equality of women shall not be regarded as an infringement of equality or unlawful discrimination. It further notes that in any public body, there shall be proper representation of women in the various types of posts and grading (section 6C(a)). In cases of similar qualification of candidates of both sexes, affirmative action shall be taken in favour of the female candidate wherever this is necessary to implement this provision. The Committee would be grateful to receive information on the practical application of the Equal Rights Act, as amended, including any programmes or activities undertaken by the Government, court decisions and statistical information on the impact on men and women's, including non-Jewish women's, employment of the affirmative action measures taken.

Latvia (ratification: 1992)

The Committee notes the report of the Government and the replies provided to several points raised by the Committee of Experts in its previous comments.

1. *Discrimination on the ground of national extraction.* In its previous comments the Committee had expressed concern that some of the provisions of the 1999 State Language Act might have a discriminatory effect on the employment or work of the large Russian-speaking minority in the country. It had asked the Government to take into account its comments in the drafting of a new Act. The Committee notes that the State

Language Act entered into force on 1 September 2000. It notes that some of the provisions of concern to the Committee had been revised while others had not.

2. The Committee recalls that the establishment of Latvian as the official state language and the regulation of its use do not, per se, contravene the Convention. However, language restrictions that are intended to, or in fact operate to, deprive ethnic minority groups of equality of opportunity and treatment in respect of their employment and occupation without being related to the inherent requirements of a particular job would constitute discrimination on the ground of national extraction under the Convention. The Committee notes that article 114 of the Constitution provides that persons belonging to ethnic minorities have the right to preserve and develop their language and their ethnic and cultural identity, and under article 91 human rights shall be realized without discrimination of any kind. Moreover, section 1 of the Labour Code provides equal rights in legal employment relations regardless of sex, race, colour, age, religious, political or other persuasion, national or social origin, or material situation.

3. The Committee notes that section 2(2) of the State Language Act provides that the use of language in private institutions, organizations and enterprises (or companies) and the use of language with regard to self-employed persons shall be regulated in cases when their activities concern legitimate public interests. The Committee notes the additional element added to section 2(2) of the Act, providing that the use of language in private bodies shall be regulated to the extent that the restriction applied to ensure legitimate public interests is balanced with the rights and interests of private institutions, organizations, enterprises (or companies). Legitimate public interest is broadly defined as including public safety, health, morals, health care, protection of consumer rights and labour rights, workplace safety and public administrative supervision. Section 6(3) provides that employees of private institutions, organizations and enterprises (or companies), as well as self-employed persons who, as required by law or other normative acts, perform certain public functions must know and use the state language to the extent necessary for the performance of their functions. Section 8(2) provides that employees of private institutions, organizations, enterprises (or companies), as well as self-employed persons, shall use the state language in record-keeping and documents if their activities relate to legitimate public interests. Section 8(3) states that private institutions, organizations and enterprises (or companies), as well as self-employed persons who perform public functions as required by law or other normative acts shall use the state language in record-keeping and documents which are required for performing their functions.

4. The Committee notes that the new State Language Act retains a very broad definition of public interest. The Committee understands that the Government has enacted several regulations under the State Language Act and it requests the Government to supply in its next report the texts of the regulations, as well as detailed information on the Act's practical application, including criteria used to determine legitimate public interest, administrative and judicial procedural protections and sanctions imposed for violations of the Act. The Committee is particularly interested in the impact of the Act on Latvia's ethnic and linguistic minority groups in respect of their employment and occupational opportunities, including the number of persons who may have lost their jobs or income due to the implementation of the Act. The Committee also requests the Government to provide clarification as to the meaning of "the rights and interests of

private institutions, organizations and enterprises (companies)" as set out in section 2(2) of the State Language Act.

5. *Discrimination on the ground of political opinion.* The Committee notes that one of the mandatory requirements established by the 2000 State Civil Service Act in order to qualify as a candidate for a position in the civil service is that the person concerned "is not or has not been in a permanent staff position in the state security service, intelligence or counter-intelligence service of the USSR, the Latvian SSR or some foreign State" (section 7(8)). A similar provision is found in the Act on Police of 1999, stating that "the police shall not employ a person who is or has been a permanent or temporary staff employee of the security service (intelligence or counter-intelligence service) of the USSR, Latvian SSR or some foreign State; an agent, a resident or keeper of safe house (under any form of cover organization)" (section 28, fourth sentence) on the basis of employment in security forces of the former political regime.

6. The Committee recalls that requirements of a political nature can be set for a particular job, but to ensure that they are not contrary to the Convention, they should be limited to the characteristics of a particular post and be in proportion to its labour requirements. The Committee notes that the above established exclusions by the provisions under examination apply broadly to the entire civil service and police rather than to specific jobs, functions or tasks. The Committee is concerned that these provisions appear to go beyond justifiable exclusions in respect of a particular job based on its inherent requirements as provided for under *Article 1(2) of the Convention*. The Committee recalls that for measures not to be deemed discriminatory under *Article 4*, they must be measures affecting an individual on account of activities he or she is justifiably suspected or proven to be engaged in which are prejudicial to the security of the State. *Article 4* of the Convention does not exclude from the definition of discrimination measures taken by reason of membership of a particular group or community. The Committee also notes that in cases where persons are deemed to be justifiably suspected of or engaged in activities prejudicial to the security of the State, the individual concerned shall have the right to appeal to a competent body in accordance with national practice.

7. In the light of the above, the Committee considers the exclusions from being a candidate for any civil service position and from being employed by the police are not sufficiently well defined and delimited to ensure that they do not become discrimination in employment and occupation based on political opinion. The Committee hopes the Government will revise the provisions concerned, and, in doing so, will have recourse to the indications provided by the Committee in its General Survey on equality in employment and occupation of 1988, in particular paragraphs 126, and 135 to 137, and of paragraphs 192 to 202 of the Special Survey of 1996. The Government is further requested to provide detailed information in its next report on the application of the provisions, including the number of persons and their levels who have been dismissed or excluded from being a candidate for a civil service position based on section 7(8) of the State Civil Service Act and from being employed by the police based on section 28 of the Act on Police. Please also indicate the procedural protections of appellate review available to affected persons, the criteria used for determining the basis of exclusion or dismissal and any administrative or judicial decisions relevant to the application of these provisions. Please also supply information on whether the conformity of this Act with

the Constitution or with the Convention has been challenged before the Constitutional Court.

The Committee is addressing a request directly to the Government on other points.

Mexico (ratification: 1961)

1. The Committee notes the information contained in the Government's report and the comments of the Confederation of Workers of Mexico (CTM) and the Confederation of Industrial Chambers of the United States of Mexico that were received together with the report. It also notes the communication dated 28 September 2001 from the Mexican Union of Electricians respecting the application in Mexico of Convention No. 111 and of the Indigenous and Tribal Peoples Convention, 1989 (No. 169). Noting that the Government's comments on the latter communication have not been received, the Committee will defer its examination of it until its next session in 2002.

2. The Committee refers to its previous comments on the allegations received over various years concerning a series of systematic discriminatory employment practices in export processing zones (the *maquiladora* industry). These practices discriminate against women by requiring pregnancy tests and other discriminatory practices as a condition for access to employment in *maquiladoras*. These practices are also carried out against women already employed in *maquiladoras*. The Committee notes that allegations concerning these discriminatory practices have been the subject of ministerial consultations in the context of the North American Agreement on Labour Cooperation (NAALC). The Committee previously requested the Government to investigate these allegations and, as appropriate, to take measures to bring them to an end. It had also requested information on the measures taken in practice or which were envisaged to investigate, punish and eliminate such practices, which are in violation of sections 133 and 164 of the Federal Labour Act (LFT).

3. The Committee notes the amendment on 14 August 2001 to article 1 of the Constitution setting out the principle of non-discrimination, which reads as follows: "All discrimination shall be prohibited on grounds of ethnic or national origin, gender, age, differences in capacities, social situation, health condition, religion, opinion, preference, civil status or any other characteristic prejudicial to human dignity and which is for the purpose of nullifying or prejudicing the rights and freedoms of the individual." The Government indicates that section 133 of the Federal Labour Act (LFT) provides that it is prohibited for employers to refuse to accept workers for reasons of age or sex, and that it is through this provision that the LFT regulates admission to employment. It adds that, although Mexican legislation does not specifically cover the issue of discrimination in admission to employment, the Government has taken measures with a view to following up the observations of the Committee of Experts in this regard. The Committee notes the information provided by the Government on the measures of a general nature, including the national consultation initiated by the Secretariat for Labour and Social Insurance, the functions of the Office of the Federal Labour Attorney and the information campaign seeking to promote the integration of women into formal work under conditions of equality of opportunity and treatment. It notes the information campaign carried out by the Secretariat for Labour and Social Insurance targeting indigenous persons in urban areas.

4. The Committee notes with interest the adoption of the Act respecting the National Institute for Women, published in the *Diario Oficial* of the Federation on 12 January 2001. It notes that the Institute is currently developing the National Programme for Equality of Opportunity and Non-Discrimination. The Committee would be grateful if the Government would keep it informed of the activities of the Institute relating to the application of the Convention. The Committee also notes the training courses on gender organized in the context of the Plan of Action for More and Better Jobs, and particularly the training workshop on gender for 38 federal and local labour inspectors. Recalling the Government's statement in its previous report that it was planned to extend the Plan of Action to the remaining frontier states, the Committee requests the Government to provide information in this respect in its next report. In this context, the Committee notes the Government's statement that the Federal Labour Inspectorate and the Secretariat for Labour and Social Insurance have carried out inspections concentrating on the issue of discrimination, and particularly in the export processing industry. The Government states that between 1998 and 2000 a total of 27,387 inspections were carried out in enterprises in which 1,133,059 women workers were engaged. The Committee notes, as it has in its previous comments, that these figures refer to women who are already employed and not women at the stage of recruitment or hiring.

5. The Committee notes the Government's statement that the *maquiladora* industry has been one of the most important sources for the creation of jobs for women and that women account for the majority of the workforce in this industry. In view of the high proportion of women employed in the Mexican *maquiladora* industry, the Committee considers that special efforts should be made to ensure that women workers do not suffer discrimination in employment and that they have access to training opportunities and better jobs.

6. The CTM indicates that Chapter 1 of the Constitution of Mexico provides that "the principle of equality for all inhabitants of the country is based in the enjoyment of the fundamental rights established by the Federal Constitution, irrespective of the condition of Mexican or foreign nationality, race, religion or sex". The CTM adds that treatment in relation to employment and occupation and social security is equal in Mexico and that the right to equality is set out in the Federal Labour Act and the social security legislation.

7. The Confederation of Industrial Chambers of the United States of Mexico endorses the comments of the CTM and indicates that Mexican employers agree on compliance with the principles of non-discrimination for and in employment.

8. The Committee once again reiterates that the alleged practices referred to above in paragraph 2 constitute discrimination in employment and occupation on grounds of sex and requests the Government to take appropriate measures to investigate and eliminate such discriminatory practices. In this context, it requests the Government to amend the LFT to explicitly prohibit discrimination based on sex in recruitment and hiring for employment. The Committee requests the Government to provide detailed information in its next report on any measure that has been adopted and the progress achieved in eliminating such discriminatory practices, and it also requests the Government to provide information on the cases lodged with the local and federal

Conciliation and Arbitration Boards and Mexican courts alleging discrimination on grounds of sex.

The Committee is addressing a request directly to the Government on other points.

Nepal (ratification: 1974)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

> 1. In its previous observations, the Committee regretted that certain provisions in the Civil Service Act, 1993 (section 61), the Municipality (Working Arrangements) Regulations, 1993, and the Village Development Committee (Working Procedures Rules), 1994, permitted discrimination in employment on the basis of political opinion by providing that civil employees may be removed or dismissed from service for participating in partisan politics. The Committee had pointed out that although it may be admissible for the responsible authorities to bear in mind the political opinions of individuals in the case of certain higher level posts which are concerned directly with implementing government policy, it is not compatible with the Convention for such conditions to be laid down for all kinds of employment in general. It had urged the Government to take steps without delay to bring all relevant legislation into line with the Convention. The Committee notes the Government's statement that it has forwarded the Committee's observations to the concerned government agencies for their opinions, as they are the competent authority in this regard. The Committee hopes that the Government will urge the authorities concerned to look into this issue as a matter of urgency and requests the Government to supply detailed information in its next report on the measures taken to bring the relevant legislation into line with the Convention.
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> 2. In its previous observation, the Committee had requested clarification from the Government on how the term "moral turpitude" is defined under the criminal legislation. This term is referred to in sections 10 (those found guilty by a court of any criminal offence involving "moral turpitude" cannot be appointed to any post of the civil service) and 61(2) ("moral turpitude" constitutes grounds for removal or dismissal from service and disqualification from government service in the future) of the 1993 Civil Service Act. The Government replies that the term has not yet been defined in any particular legislation, but that in practice, "moral turpitude" includes corruption, unacceptable activities, drug abuse, rape, robbery and other criminal activities. While noting the Government's explanation, the Committee would be grateful for further clarification on what constitutes "unacceptable activities and other criminal activities" which could constitute grounds for non-appointment, removal or dismissal from service of civil employees. It also requests the Government to provide concrete examples of any cases of the non-appointment of a candidate or dismissal of a civil servant on the basis of a conviction of "unacceptable activities or other criminal activities". Moreover, the Committee obtained information regarding a complaint, dated 27 July 1998, submitted to UNESCO by the Nepal National Teachers' Association, Central Committee, alleging the murder of 11 teachers and the arrest of 15 others in the context of police action aimed at suppressing Maoist activities. The Committee notes this information with concern and requests the Government to provide in its next report information on whether any teachers arrested are under threat of being removed or dismissed from service and the basis for any such disciplinary action, if taken.
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> 3. The Committee is raising other points regarding the application of the Convention in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Netherlands (ratification: 1973)

The Committee notes new section 6(a) of the Equal Opportunities Act concerning the burden of proof. The section provides that, when a person, who considers himself or herself to be wronged because a distinction within the meaning of the Act is made or will be made, establishes facts from which such a distinction may be presumed, it shall be for the respondent to prove that the Act has not been violated. It further notes that section 7:648 of the Civil Code, which prohibits discrimination against women, also has been amended accordingly. The Committee looks forward to receiving information on the implementation of the amended legislation and its impact on enforcement.

The Committee is raising related and other points on the application of the Convention in a request directly addressed to the Government.

Pakistan (ratification: 1961)

The Committee notes the report of the Government and the communication received from the International Confederation of Free Trade Unions (ICFTU) which has been sent to the Government for comments.

1. In its previous observation, the Committee invited the Government to reply to comments by the All Pakistan Federation of Trade Unions (APFTU) concerning the application of the Convention, alleging that the Government has not held consultations with employers' and workers' organizations to facilitate the declaration and pursuance of a national policy to promote equality of opportunity and treatment in respect of employment and occupation as envisaged in the Convention. The Committee notes the Government's reply that it has always consulted all stakeholders on all important and policy issues of labour relations. It further notes the assurances given by the Government that it will continue to promote the tripartite consultation process in the future and to involve workers' and employers' organizations in the decision-making process. The Committee draws the Government's attention to the fundamental nature of the right to non-discrimination and the importance of formulating and implementing a national policy in accordance with the requirements of the Convention. The Government is urged to cooperate with the social partners with a view to promoting the acceptance and observance of the national policy to promote equality of opportunity and treatment in respect of employment and occupation and to keep the Committee informed of developments in this regard.

2. *Discrimination on the basis of religion.* The Committee notes that the Government did not provide any new information in response to the Committee's previous requests related to discrimination on the basis of religion. The Committee recalls its hopes that the Government would review section 295C of the Penal Code, or the "Blasphemy Act", which provides that anyone guilty of defiling the name of the Prophet Mohammed could be subjected to the death penalty, and sections 298B and 298C of the Penal Code, which establish sentences of imprisonment for up to three years for any members of the Quadiani, Lahori and Ahmadi religious groups who, inter alia, preach or propagate their faith, whether by spoken or written words, or by visible representation. It also requested the Government to reconsider its position with regard to the declaration required to obtain passports, to the effect that the founder of the Ahmadi movement was a liar and an impostor, which is designed to prevent non-Muslims from

obtaining passports which identify them as Muslims. The Committee therefore is bound to express its concern once again that the enjoyment of equality of opportunity and treatment in respect of education and employment for certain religious minorities is necessarily impaired by the application of the measures referred to above. It also reiterates its request to the Government to provide statistical data on the professional situation of the various religious minorities, including the Ahmadis, with particular regard to their access to employment and their conditions of employment. The Committee also hopes that the Government will provide detailed information on the measures taken to guarantee in practice non-discrimination on the basis of religion for all aspects of employment (that is access to vocational training, employment and the various occupations, as well as terms and conditions of employment). The Committee also reiterates its request for information on the strategy implemented by the Minorities Affairs Division of the Federal Government and on the work of the National Commission for Minorities. It further requests the Government once again to provide information on the implementation and results of the project on the development and strengthening of governmental and non-governmental institutional capacity for the promotion of human rights, implemented by the ILO, which commenced in 1999.

3. *Discrimination on the basis of sex.* As regards the impact of the measures taken by the Government to combat illiteracy of women and the low participation of women and girls in education and training, the Committee notes from the Government's report that only marginal progress was made over the last decades. According to the Government, about 50 per cent of girls drop out of school before completing primary education, and that the drop-out rate for girls in rural areas is as high as 75 per cent. In 1991, only 23 per cent among girls between six and 14 years of age from families living below the poverty line were attending schools compared to 54 per cent among boys. The Government states that the reasons for the continuing problems include social attitudes, the lack of mobility of girls and their additional domestic responsibilities, the financial burden for poor families, the lack of educational facilities and the bad state of existing ones as well as the absence of female teachers beyond the primary level. The Committee notes that the Government has planned to increase the allocations for the educational sector to improve the illiteracy rates of women. The Committee also notes that education is an area of concern of the National Plan of Action for Women and that the Government has launched the Khushali Bank and Khushali Pakistan Schemes which aim at giving an impetus to the female literacy rate. The Government is asked to provide further information on these schemes as well as on the measures implemented under the National Plan of Action to promote education and training of women and girls and the progress made in increasing allocations for education. The Committee requests in particular information on measures taken to increase participation of girls in rural areas in primary and secondary education, including action taken to change social attitudes, such as perceived domestic responsibilities and lack of mobility of girls, that prevent them from enjoying their equal rights to education.

4. As regards the need to take measures to combat segregation in training between women and men, the Committee notes with interest that the National Training Bureau launched a women's training component involving the establishment of a number of training centres offering courses in occupations less traditional for women. The Committee also notes that special programmes and modules are provided for vocational guidance. The Committee invites the Government to provide information on further

measures taken in respect of training of women for employment and to supply statistical information on women's participation in such training. It reiterates its request to provide information on the progress made by the project to establish a national training and resource centre.

5. According to the ICFTU, discrimination against women in access to employment remains pervasive including unequal treatment in terms of pay and working conditions, despite the fact that the Government has taken some steps to encourage equal treatment for women, such as the formation of a National Commission on the Status of Women. This information also contains allegations of many reports of sexual harassment at the workplace. The Committee has repeatedly requested the Government to indicate the measures taken or envisaged to give effect to the recommendations made in 1997 by the National Commission of Inquiry for Women, and particularly its recommendation that a detailed examination be made of laws and regulations that discriminate against women, with the aim of proposing amendments and other remedial measures. While noting from the Government's report that no legislative or other measure has yet been taken in this regard, the Committee notes the additional measures to promote gender equality announced by the Minister of Labour, Manpower and Overseas Pakistanis on 30 April 2001 as part of a broader package of labour welfare reform. The measures announced include equal remuneration for men and women for work of equal value through appropriate legislation, enhancement of maternity benefits for female mineworkers, safeguards against sexual harassment through appropriate action and the recruitment of female labour inspectors for enforcement of labour law for female workers. The Committee hopes that the Government will take all measures necessary to work towards the elimination of discrimination in employment and occupation on the basis of sex, and in so doing will give due regard to the recommendations made by the 1997 Commission of Inquiry. The Government is asked to provide information in its next report on any measures taken or planned to promote equality for women, including information on the structure, mandate and activities of the National Commission on the Status of Women and the implementation of the measures announced by the Minister of Labour, Manpower and Overseas Pakistanis.

6. *Special industrial zones (SIZs) and export processing zones (EPZs).* The Committee notes from the report of the Government that separate labour laws for SIZs and EPZs are being finalized. The Committee in particular notes the statement of the Government that the Convention "is being kept in view" while drafting these laws. The Committee hopes that the Government will take the steps necessary to ensure that the labour laws for SIZs and EPZs fully reflect the principles and objectives of the Convention, in particular the prohibition of discrimination on the grounds listed in *Article 1(1)(a)*, including with regard to terms and conditions of employment and the prevention of and protection from sexual harassment. The Government is requested to provide information in its next report on any progress made in this respect and to provide copies of any new laws as soon as adopted.

Panama (ratification: 1966)

1. The Committee notes the communication sent by the National Federation of Associations and Organizations of Public Servants (FENASEP), dated 18 May 2001, in which it alleges that the current Government has dismissed over 19,000 public servants.

equivalent to 15 per cent of state employees, without giving justified reasons for their dismissal and without following the procedures set out in the law. FENASAEP states that 80 per cent of those dismissed are registered members of the political party called the Democratic Revolutionary Party (PRD) and alleges that the dismissals constitute discrimination on grounds of political opinion, in violation of *Article 1 of the Convention.*

2. In its response dated 24 October 2001, the Government states that during the period between June 1999 and September 1999, which was a transition period before the new Government took office, a total of 5,634 public servants were accredited, compared with a total of 4,512 during the period between June 1994 up to the general election held on 2 May 1999. According to the Government, during this three-month period there was an "arbitrary and indiscriminate recruitment of public servants" who were members of the coalition government of the time (PRD). The current government indicates that it took "corrective action with a view to ensuring that those who had been accredited complied with the minimum requirements set out in the relevant legal provisions" and it revised the system of entry into administrative careers in order to remedy the problems. The Government contends that the fact that a high percentage of the public servants who were dismissed were members of the PRD is due precisely to the fact that these public servants were accredited without complying with the legal requirements. The Government adds that Act No. 9 of 20 June 1994, regulating and establishing the administrative career, mandates the appointing authority in each institution to replace those public servants who are not included in the administrative career, including those of free appointment and removal, and those who are in office. The Government also affirms that Executive Decree No. 222 of 12 September 1997, issuing regulations under the Act respecting administrative careers, sets out the right of public servants to submit their cases for reconsideration by the appointing authority or the Board of Appeal and Conciliation of Administrative Careers, and where appropriate they may appeal the decision to the Supreme Court.

3. The Committee recalls that exclusion arising out of the inherent requirements of a particular job must be interpreted strictly so as not to give rise to undue limitations on the protection afforded by the Convention, inter alia, against discrimination on grounds of political opinion, which includes identification based on membership of political parties. While political affiliation or opinion may be taken into account for certain high-level posts directly related to government policy, the same does not apply to many positions in the public service in general. Thus, the reasons for terminating employment must be sufficiently clear to ensure that dismissal is not based on grounds of political opinion, in violation of the Convention.

4. In the light of the above, the Committee requests the Government to provide detailed information on the criteria used to determine the basis for the dismissals and the manner in which it has been ensured that political opinion has not been used as a basis for taking decisions. Furthermore, the Committee requests the Government to provide information on the public servants made redundant, including their grade, the type and date of contract, period of service and political affiliation, as well as the number of appeals which have been made to the courts, and those that have been taken to the Board and the Supreme Court, with copies of the relevant rulings and the number of public servants who have been reinstated.

The Committee is also raising other matters in a request addressed directly to the Government.

Paraguay (ratification: 1967)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Discrimination on the basis of political opinion.* In its earlier observation, the Committee noted with interest that, according to the Government's report, section 95 of the Bill on the Status of Civil Servants and Public Employees, which was before the National Parliament, would repeal Act No. 200 of 17 July 1970, which, by stating that "no public official may engage in activities contrary to public order or to the democratic system established by the Constitution", could give rise to discriminatory practices based on political opinion. The Committee notes from the Government's report that to date no Act in respect of public servants has been approved and that three Bills are before the National Parliament, of which one has the approval of the Drafting Committee. Recalling that it has been pointing out since 1985 that the section 34 of the abovementioned Act is in contravention of *Article 1(1)(a) of the Convention*, the Committee again urges the Government to take the measures necessary to repeal Act No. 200 and requests it to continue to provide information in this respect.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Qatar (ratification: 1976)

1. The Committee notes the report of the Government and the attached documentation. The Committee also notes the new communication from the International Confederation of Arab Trade Unions (ICATU), which has been sent to the Government on 9 April 2001 for comment. ICATU alleges the existence of flagrant inequalities between men and women and on the basis of sex, race, religion and nationality. In the absence of a reply by the Government, the Committee recalls its previous requests to the Government related to the necessity of declaring a national policy designed to promote equality of opportunity and treatment in employment and occupation, with a view to the elimination of any discrimination. While the absence of discriminatory laws and administrative measures may be considered as elements of a national policy, it is not sufficient in itself to constitute such a policy as prescribed under *Articles 2 and 3 of the Convention.* A national equality policy necessarily includes the adoption and implementation of proactive measures and policies aimed at promotion of equality in employment and occupation in respect of all the grounds listed in the Convention. Noting that the Government is referring to a new Labour Code, the Committee hopes that the Code will fully reflect the principles and objectives of the Convention, and requests the Government to provide a copy as soon as possible.

2. *Discrimination on the grounds of sex.* With reference to its previous comments, the Committee notes with interest that Act No. 1 of 2001, on the promulgation of the Public Service Act, repeals section 82 of that Act, which authorized the authorities to terminate the employment contracts of nurses as from the fifth month of their pregnancy. The Committee requests the Government to provide information on the impact of this change in law on the employment of female nurses.

3. The Committee welcomes the information provided by the Government on the status of women in education and training, as well as their participation in the labour market. The information continues to show the participation of women in vocational training programmes, and in some instances the Committee notes that their participation is increasing. For example, the percentage of women students at the Institute for Administrative Development has increased between 1997 and 2001, from 26 per cent to 42 per cent. The Committee notes the distribution of men and women in the various training programmes reveals that some specializations are only or mainly pursued by women (applied chemistry and biology, computer information technology, geographic information systems, administrative information systems, nursing, office and secretarial work), while in other fields only men are represented (electro-mechanics, communications, technology of construction, land surveying and management, health monitoring and petroleum). The Committee asks the Government to continue to provide information on the distribution of men and women in the programmes provided by the various training and education institutions at all levels, including the technical college recently established. Noting the concentration of women in specific fields, the Committee requests the Government to take measures to promote equal access of men and women to all areas of training and education, according to their own choice, including through promotional activities and adequate vocational guidance, and to keep the Committee informed in this respect. The Committee also hopes the Government will adopt policies and measures to address the existing occupational segregation and the lack of women in management training programmes.

4. With reference to the participation of men and women in the labour market, according to sectors and occupational groups, the Committee notes the examples given by the Government for increasing public employment of women outside the fields of education and health in response to the Committee's previous comments. In this respect, it notes that the participation of women in various ministries has increased from 1999 to 2000, including municipal affairs (0.9 per cent), justice (6.5 per cent) and foreign affairs (0.2 per cent). While noting these slight improvements in employment levels of women in ministries, the Committee notes that the overall level of female participation in government employment remains generally low, with the highest participation in education and health. The Committee also notes that as of 31 December 1999, out of 14,919 persons employed in the public service (Qataris and non-Qataris), 3,589 were women (836 Qataris and 2,753 non-Qataris). Noting that in this sector only three Qatari women fall into the occupational group of legislators, senior officials and managers (out of the 255 persons falling in that category), the Committee observes that women are de facto excluded from this category. In the group of specialists, out of the 1,167 female specialists (compared to 1,804 men), 260 were Qatari women. It hopes the Government will be able to report on measures taken to promote the equal participation of women in ministries and in the public service.

5. With respect to the mixed sector and the private sector (banking and insurance), the Committee notes the similar absence of women in the occupational group of senior officials and managers and a disproportionate representation of women among clerks. The Committee notes that the Government considers the implementation of the five-year plan (2001-05) for the training and qualification of secondary school and university graduates to result in raising the percentage of women's participation in the overall labour force. Noting that among the jobseekers registered with the Labour Department of

the Ministry of Civil Service Affairs and Housing in 2000, women with university and secondary education significantly outnumbered men at the same educational level, the Committee asks the Government to provide information on targeted measures taken to promote employment of female jobseekers with secondary and tertiary education. The Government is requested to continue to provide statistical information on men and women's participation in the labour market and on measures taken or envisaged to effectively promote equality of treatment and opportunity with respect to employment and occupation in all sectors including women's access to jobs at the management and decision-making levels.

6. *Discrimination on the basis of race, colour, national extraction and religion.* In the light of the comments made by ICATU, the Committee once again brings to the Government's attention the importance of addressing all grounds of discrimination contained in the Convention. Noting that again no information in this respect was provided, the Committee, reiterating its previous request, urges the Government to indicate how protection against discrimination in employment and occupation on the basis of race, colour, national extraction and religion is ensured in law and in practice.

The Committee is raising related and other points in a request addressed directly to the Government.

Saudi Arabia (ratification: 1978)

1. The Committee notes the report of the Government. The Committee also notes the communication from the International Confederation of Arab Trade Unions (ICATU) concerning the application of Convention No. 111 and the comments provided by the Government in reply, both of which were similar to those made last year. The Committee recalls that attention was previously drawn to issues concerning the existence of discrimination between men and women, ethnic groups, nationalities, races and religions.

2. The Committee has previously noted the Government's statements that the Convention is applied in Saudi Arabia through Islamic law, the Sharia, which forms the basis for the general legal system in the country and that the Sharia and the basic system of government promulgated by Royal Decree A/90 of 1992 provide for justice and equality in all matters without any discrimination on the basis of race, religion, sex and colour. The Committee has drawn the Government's attention to *Article 2 of the Convention*, which requires the Government to declare and pursue a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation by methods appropriate to national conditions and practice, with a view to eliminating any discrimination on the grounds of race, colour, sex, religion, political opinion, national extraction or social origin in respect thereof. The Committee recalls that the national policy is to be declared and pursued in respect of access to vocational training, access to employment and to particular occupations, as well as terms and conditions of employment.

3. The Committee's dialogue with the Government has focused for a number of years primarily on section 160 of the 1969 Labour Code, which provides that "in no case may men and women co-mingle in the place of employment or in the accessory facilities or other appurtenances thereto" and the issue of access of Saudi women to education and vocational training for occupations not traditionally deemed to be "feminine" in nature.

More recently, the Committee requested the Government to provide information on the measures taken to prohibit discrimination on the grounds of religion, political opinion, race and national extraction in employment and occupation in accordance with the Convention.

4. As regards section 160 of the Labour Code, the Committee has observed that this provision may result in de facto occupational segregation on the basis of sex. The Committee thus welcomes the information provided by the Government that the competent authority is currently examining section 160. It hopes that the examination will take into account the requirements of the Convention and the Committee's comments over the years concerning the impact of this section. It also hopes that the examination will result in the legislation and practice being brought into conformity with the Convention.

5. The Committee further notes the Government's information that section 160 has not impeded women's access to occupations in a number of sectors also occupied by men, including commerce, industry, education and medicine. Similarly, the Government states in its latest report that the application of section 160 does not result in de facto occupational segregation on the basis of sex. The Committee notes that the Government is unfortunately not yet in a position to provide statistical data on the distribution of men and women in the various jobs and occupations and at the different levels of the civil service. The Committee encourages the Government to make every effort to provide statistical data on the distribution of women in the different jobs and occupations and at the different levels in the civil service and to keep the Committee informed on the process of examining the provisions of section 160 precluding women from certain areas of employment, as to extend women's occupational and employment possibilities into precluded areas in conformity with the Convention.

6. The Committee notes the Government's statement that there is a national policy that deals with the promotion and development of vocational training infrastructure with a view to train both men and women in order to obtain adequate jobs without any kind of discrimination. The Government states that schools and training centres are open to registration by participants of both sexes according to their social situation. In its previous reports the Government had indicated its intent to increase the capacities of existing training facilities for women as well as to inaugurate new centres and introduce new areas of specialization. The Committee requested the Government most recently to supply information on all measures taken to implement the national policy on non-discrimination in vocational education and training. Noting that no specific information in this regard has been provided, the Committee hopes that the Government will do its utmost to provide this information in its next report. The Government is also asked to explain the meaning of the criterion "social situation" as regards registration in vocational schools and training centres and to continue to provide statistical information on the participation of women in all areas of training provided. Noting again that the number of women participating in education and training is not reflected in the workforce, the Committee reiterates its request to the Government to submit information on measures taken in regard to career guidance and placement services.

7. Concerning the prohibition of discrimination on the grounds of religion, political opinion, race and national extraction, the Committee notes that the Government refers generally "to the sacred position given to the principles of equality and non-

discrimination in national practice". The Committee also notes from the report that the Government did not take any specific measures to prohibit discrimination on these grounds. The Committee points out the importance of taking measures to address discrimination, both direct and indirect, in all its forms and hopes that the Government will take the necessary steps to ensure that the principles of the Convention in respect of promoting equality on all the grounds listed in *Article 1(1)(a)* are fully applied. It requests the Government to provide information in its next report on measures taken or envisaged in this regard.

The Committee is addressing a request directly to the Government on other points.

Sierra Leone (ratification: 1966)

The Committee notes with regret that the Government's report has not been received for the past six years. It must therefore repeat its previous observation which read as follows:

> 1. The Committee has been noting that the new Constitution (Act No. 6 of 1991) no longer made provision for a one-party system and did not reserve certain high-level public offices for members of the recognized party, as had the Constitution of 1978. (The previous Constitution of 1961, which had included a general provision for the protection of fundamental rights and freedoms on most of the grounds of the Convention was suspended in 1968.) The Committee had also noted with interest that article 8(3) of the new Constitution directs state policy towards ensuring that every citizen, without distinction on any grounds whatsoever, should have the opportunity for securing adequate means of livelihood and adequate opportunities to secure suitable employment and that article 15 lays down certain fundamental human rights and freedoms for all individuals irrespective of race, tribe, place of origin, political opinion, colour, creed or sex. As there had been no progress towards enunciating a national policy to promote equality of opportunity and treatment in employment and occupation, as required by *Article 2 of the Convention*, the Committee had hoped that, in the light of the new Constitutional provisions and, especially, those of article 8(3), the Government would proceed to formulate a national policy, in consultation with the tripartite Joint Consultative Committee.
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> 2. In its reports, the Government states that, despite the suspension of the 1991 Constitution, the Government has a broad-based policy which ensures jobs for all who apply, regardless of sex, religion, ethnicity and political opinion. The Government also states that the Joint Consultative Committee has yet to make its final recommendations on a national policy. The Committee notes this information with concern. It recalls that in the 30 years since the Convention's ratification, the Government has reported consistently that no legislation or administrative regulation or other measures exist to give effect to the provisions of the Convention and that no national policy has been declared, pursuant to *Article 2*. With the suspension of the 1991 Constitution, there is no national legal instrument or formally declared policy in the country which provides any protection against discrimination. The Committee hopes that the Government will respect its obligations under the Convention. In particular, it trusts that a national policy on discrimination will be formulated, as required by the Convention, and that full details will be provided in the Government's next report, on the measures being taken and contemplated to apply the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Sudan (ratification: 1970)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

> 1. The Committee refers to its previous comment, in which it noted the adoption of a new Constitution, which prohibits discrimination on grounds of race, sex and religion, and in which it drew the Government's attention to the absence of any formal prohibition of any form of discrimination on the grounds of political opinion, national extraction, colour and social origin. It also noted the adoption of a number of other legislative texts, including the new Labour Code, which does not contain provisions respecting non-discrimination in employment and occupation. The Committee is bound once again to recall that, where provisions are adopted to give effect to the principle set forth in the Convention, they should prohibit all the forms of discrimination covered by *Article 1, paragraph 1(a), of the Convention.* It therefore requests the Government to provide information on the specific measures which have been taken or are envisaged to set out in law protection against discrimination on the grounds which are formally prohibited by the Convention, but are not laid down in the Constitution.
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> 2. The Committee notes the Government's statement that any person who considers that his/her constitutional rights have been violated, including in the fields of employment and occupation, has the right to appeal to the Constitutional Court. The Government also states that the new Labour Code does not establish any distinction based on the sex of the worker. The Committee wishes to recall in this respect that, while the establishment in the Constitution of the principle of equality of opportunity and treatment and the judicial protection of victims of discrimination represents an important stage in the implementation of the above principle, they cannot on their own constitute a national policy within the meaning of *Article 2* of the Convention. The implementation of a policy of equality of opportunity and treatment also presupposes the adoption of specific measures designed to correct inequalities observed in practice. Indeed, the promotion of equality of opportunity and treatment in employment and occupation as advocated by the Convention is not aimed at a stable situation which can be definitively attained, but at a permanent process in the course of which the national equality policy must continually be adjusted to the changes that it brings about in society. While the Convention leaves it to each country to intervene according to the methods which appear to be the most adequate, taking into account national circumstances and customs, the effective application of the national policy of equality of opportunity and treatment requires the implementation by the State concerned of appropriate measures, the underlying principles of which are enumerated in *Article 3* of the Convention. It is therefore important to emphasize the interdependence of these two means of action, consisting of the adoption of legal provisions and the preparation and implementation of programmes to promote equality and correct de facto inequalities which may exist in training, employment and conditions of work. The Committee requests the Government to take the necessary measures, as set out among other provisions in *Article 3(a), (b), (c), (d) and (e)* of the Convention, with a view to guaranteeing the effective application of the principle of non-discrimination in relation to equality of opportunity and treatment.
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> 3. The Committee recalls that, under the terms of the Public Order Act of 1996, Muslim women are liable to be beaten or whipped if their dress is deemed to be indecent or if they go out in the street after nightfall, which considerably restricts their freedom of movement. Since these restrictions are not without impact on the training and employment of women, the Committee once again requests information on the measures which have been taken or are envisaged to ensure equality of access for men and women to jobs of their own choosing. In this respect, it trusts that in its next report the Government will finally provide a copy of the instructions on the dress code of what women must wear in public places, including at their workplace.

> 4. The Committee also requests the Government to indicate in its next report the measures which have been taken for the active promotion of equality of opportunity and treatment in vocational training and employment for all categories of workers, and particularly those who are most vulnerable in view of their social status, such as women and certain ethnic minorities (for example, the Nuba in central Sudan) and other marginalized social groups.
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> 5. In a request addressed directly to the Government, the Committee is raising other matters concerning: jobs and occupations which are prohibited for women and the need for a woman to obtain the authorization of her husband or guardian to be able to travel abroad.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Sweden (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. The Committee notes with interest the adoption of two new anti-discrimination laws on 1 May 1999 prohibiting discrimination in the workplace on the grounds of functional impairment (Act No. 1999:132) and sexual orientation (Act No. 1999:133). It also notes with interest the adoption on 1 May 1999 of Act No. 1999:130 on Action against Ethnic Discrimination at Work. It notes that the Act prohibits direct and indirect discrimination, covers all aspects of the employment relationship including recruitment, and requires the employer to take active measures to prevent ethnic discrimination. The Committee also notes that the Act establishes that there shall be an Ombudsman against Ethnic Discrimination (DO) and the Anti-Discrimination Commission which are to be responsible for monitoring the application of the Act.
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> 2. The Committee is raising other points in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to provide information on the implementation and impact of the new legislation.

Syrian Arab Republic (ratification: 1960)

The Committee notes the Government's report and the attached documents, including the information provided in response to the Committee's previous direct request.

1. The Committee notes the continuing statements of the Government to the effect that discrimination on the grounds listed in *Article 1(1)(a) of the Convention* does not exist in the Syrian Arab Republic and that no further measures are necessary, given that the principle of equality was embodied already in national legislation. The Committee reiterates its view that such an attitude is difficult to accept, since no society is free from discrimination and because a denial of the existence of discrimination is a serious obstacle to addressing it and to making progress in promoting equality of opportunity and treatment. The Committee also recalls that the application of the principles of the Convention is achieved in successive stages, with each stage being the occasion for the discovery of perspectives revealing different and new problems, thereby resulting in the adoption of new measures to resolve them. *Articles 2 and 3* require the taking of positive and proactive measures to promote equality in employment and occupation. The Committee once again hopes that the Government, in its next report, will be in a position

to provide information allowing an evaluation of the progress achieved in attaining equality in employment and occupation on the basis of all the grounds set out in the Convention.

2. The Committee notes from the report that the Women's National Committee, in cooperation with the competent ministries and popular organizations are responsible for the implementation of the national strategy for women and that the strategy was circulated to all relevant official bodies and national organizations. The Committee also notes the information provided on the role and composition of the Women's Federation, whose objective is to develop women's experience to enable them to participate effectively and fully in the political, cultural, economic and social life and to take action to remove barriers hindering women's development. The Committee welcomes the Government's intention to address existing inequalities affecting women's development. Noting that no information was provided on measures actually taken with a view to implementing the national strategy for women, the Committee invites the Government to supply concrete examples of action taken by the responsible authorities towards its implementation, including those measures taken concerning the abovementioned objectives. The Government is further asked to continue to provide statistical information on the participation of women in employment and occupation, including the distribution of men and women in the various areas of economic activity and occupational groups and at the decision-making and management levels.

3. The Committee refers to its previous request concerning measures to promote the participation of women in non-traditional training. The Committee notes that the literacy rate among females aged 15 to 24 increased from 82.1 per cent in 1994 to 89.2 per cent in 1998. It notes that the training for women in non-traditional fields receives great support from the political leadership. The Committee notes that the Fourth Conference on Education Development in the Syrian Arab Republic held in 1998, adopted several recommendations in regard to improving attention to non-traditional education for women and that vocational training centres are established under the Ministry of Industry. The Committee requests the Government to provide a list of the recommendations made by the Fourth Conference on Educational Development related to promoting equal access of women to training and education, as well as information on any follow-up action taken. The Committee also requests the Government to continue to provide statistical information on the participation of women in training and education at all levels and in the various specializations, including in respect to vocational training centres.

4. The Government is requested to provide information on cooperation and specific activities carried out by the social partners to promote application of the Convention.

Trinidad and Tobago (ratification: 1970)

The Committee notes with interest the adoption of the Equal Employment Act, 2000, which prohibits discrimination on the basis of sex, race, ethnicity, origin, religion, marital status or disability in relation to employment, education, the provision of goods and services, as well as accommodation. The Committee notes that discrimination in employment as defined by the Act includes discrimination as regards recruitment, hiring, terms and conditions of employment, promotion, transfer and training, access to facilities or services associated with employment or any other benefit, vocational training, as well as dismissal or subjecting a person to any other detriment. The Committee also notes that the Act establishes an Equal Opportunity Commission and an Equal Opportunity Tribunal. Referring to previous comments noting the lack of legislative protection, the Committee welcomes the adoption of the new Act. It notes, however, that political opinion is not mentioned as one of the prohibited grounds. It requests the Government to indicate the reasons for this omission, as well as the manner in which discrimination on grounds of political opinion is prohibited in employment in practice and hopes that the Government will consider amending the Act, bringing it fully in line with *Article 1(1)(a) of the Convention*. The Committee requests the Government to provide in its next report information on the implementation of the Act, including indications as to the impact of the legislation on achieving equality in employment and occupation.

The Committee is raising other points in a request addressed directly to the Government.

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In addition, requests regarding certain points are being addressed directly to the following States: *Albania, Algeria, Antigua and Barbuda, Barbados, Bolivia, Burkina Faso, Chad, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Denmark, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Gabon, Ghana, Guatemala, Guinea, Haiti, Honduras, Israel, Jamaica, Republic of Korea, Latvia, Lesotho, Liberia, Lithuania, Mexico, Mongolia, Nepal, Netherlands, Nicaragua, Panama, Peru, Qatar, Saint Lucia, Sao Tome and Principe, Saudi Arabia, Sierra Leone, Slovakia, Slovenia, South Africa, Sri Lanka, Sudan, Sweden, Tajikistan, Trinidad and Tobago, Tunisia, Viet Nam.*

Information supplied by *San Marino* in answer to a direct request has been noted by the Committee.

Convention No. 112: Minimum Age (Fishermen), 1959

A request regarding certain points is being addressed directly to *Mauritania*.

Convention No. 113: Medical Examination (Fishermen), 1959

Liberia (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> For many years the Committee has asked the Government to indicate whether certain provisions applicable to merchant vessels, i.e. Requirements for Merchant Marine Personnel (RLM-118) and Maritime Regulation No. 10.325(ii) also apply to fishing vessels. The Committee again expresses the hope that the Government will provide full explanations regarding the applicability of the Liberian Maritime Laws and Regulations to the medical examination of fishermen. The Government is requested to indicate whether consultations with the fishing-boat owners' and fishermen's organizations concerned, if they exist, had taken place prior to the adoption of the applicable laws and regulations on the nature of the medical examination and the particulars to be included in the medical certificate as required by *Article 3, paragraph 1*, and to provide particulars on how the age of the person to be

examined and the nature of the duties to be performed are taken into account in prescribing the nature of the examination as required by *Article 3, paragraph 2*.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Azerbaijan, Brazil, Bulgaria, Guinea, Poland, Russian Federation, Slovenia, Spain, Ukraine, Uruguay.*

Convention No. 114: Fishermen's Articles of Agreement, 1959

Liberia (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the Government's indication that the Committee's comments have been submitted to the Commissioner of the Bureau of Maritime Affairs for immediate action. Referring to its previous comments the Committee requests the Government to provide information on any reaction by the Commissioner. It also urges the Government to provide full information on each of the provisions of the Convention and each question in the report form approved by the Governing Body.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

A request regarding certain points is being addressed directly to *Mauritania.*

Information supplied by *Italy* and *Tunisia* in answer to a direct request has been noted by the Committee.

Convention No. 115: Radiation Protection, 1960

Barbados (ratification: 1967)

The Committee notes the information provided by the Government in its report in response to its comments.

1. The Committee noted in its previous comment that the Advisory Committee on Radiation Protection (ACRP), first established in 1979, was being reactivated. In this respect, it notes the Government's indication that a number of persons have been invited to sit on the ACRP, namely representatives from the University of the West Indies, the Ministry of the Environment, the Barbados Dental Association, medical and nursing personnel working in hospitals, as well as two representatives from the industry sector of which, however, one has refused to join this Committee because of the rather limited use of radiation. To the Committee's understanding, the above advisory committee has not resumed functioning yet. With regard to the numerous tasks of the ACRP, which are enumerated in the "Advisory Committee on Radiation Protection – Terms of reference", the Committee recalls that the functioning of the ACRP is instrumental in the preparation and implementation of legislative or other measures in order to provide an

effective protection to workers exposed to ionizing radiation in the course of their work and thus in the application of the Convention. The Committee therefore urges the Government to take appropriate action to make the ACRP operational. It requests the Government to keep the Committee informed on any progress achieved in this regard.

2. With reference to its previous comments, the Committee draws the Government's attention to the following points.

Articles 2 and 4 of the Convention. The Committee notes the Government's indication that the regulatory body to monitor the exposure of workers to ionizing radiation has not been established yet. It further notes that, the ACRP has not yet given directives regarding protective measures to be taken against ionizing radiation, or time limits for the application of such measures. Referring to its introductory comments, the Committee urges the Government to take the appropriate steps to make the ACRP operational and thus creating the framework for the monitoring of workers' exposure to ionizing radiation and the issuing of directives regarding protective measures, which falls, according to the Committee's understanding, in the area of competence of the ACRP.

Articles 3 and 6. With regard to the fixing of maximum permissible doses of ionizing radiation, necessary in order to comply with the requirement to ensure effective protection of workers in the light of "knowledge available at the time" and in the light of "current knowledge", the Committee notes from the Government's report that the radiation protection officer, being a hospital physician and the chairperson of the ACRP, is well aware of the recent revised dose limits of the International Commission on Radiological Protection (ICRP). In this regard, the Government indicates that reports on the doses of ionizing radiation received by workers show that the limits recommended by the ICRP were not exceeded. However, in particular cases recorded for cardiac catheterization doctors and one radiologist, the dose of radiation absorbed was beyond this limitation, which subsequently has been brought to their attention. The Committee, noting that the observance of the dose limits for ionizing radiation, as recommended by the ICRP in 1990, do not seem to set a problem to the Government in practice, requests therefore the Government to reconsider the possibility to fix maximum permissible dose levels of ionizing radiations with legally binding effect in order to guarantee by means of enforceable provisions an effective protection of workers exposed to ionizing radiations, in accordance with *Articles 3 and 6* of the Convention.

Article 5. With regard to the installation of a computerized system, type "Selectron HDR", in 1990 which reduces the number of workers dealing with radiation sources to an extent that the probable exposure to radiation would turn to zero, the Committee notes the Government's indication that this system is used in the treatment of cancer of the uterine cervix and related problems. However, its use in other medical disciplines has to be planned since logistical problems regarding the necessary equipment and the movement of staff working in related disciplines need to be resolved. The Committee hopes that the Government will take the necessary action to enable the use of the "Selectron HDR" system in all medical disciplines where appropriate in order to restrict the exposure of workers to the lowest practicable level and to avoid any unnecessary exposure of workers. The Committee requests the Government to supply information on experiences already collected in applying the system in the field of the treatment of cancer of the uterine cervix.

Article 7. The Committee notes the Government's indication that no legislation is in place to set a lower limit on the age of radiation workers. However, since it is a very fundamental issue, it is hoped that it will appear in the amended Radiation Act. In the meantime it belongs to the radiation protection officer's tasks to ensure that adequate structural shielding in place is provided, such as area monitoring, warning lights or alarm where appropriate and that only qualified workers are employed to operate machines producing radiation. In this respect, the Committee notes again the Government's indication provided with its 1998 report to the effect that the minimum age for engagement in radiation work was 16. Recalling the provision of *Article 7, paragraph 2,* of the Convention which provides for a minimum age of 16 to become engaged in work involving ionizing radiation, the Committee requests again the Government to specify the legal basis providing for the prohibition to engage young persons under 16 years of age in work involving exposure to ionizing radiations. Moreover, the Committee recalls the provision of *Article 7, paragraph 1(a),* of the Convention, providing for the fixation of appropriate levels of exposure to ionizing radiations for workers who are directly engaged in radiation work and are aged 18 and over. The Committee therefore asks the Government once again to indicate the measures taken or contemplated in order to fix appropriate levels for this group of workers. Since the Committee understands from the Government's indication that an amendment of the Radiation Act is intended, it would invite the Government to consider the possibility to incorporate such appropriate levels in the amendment of the above Act.

Article 8. With regard to dose limits to be set for workers not directly engaged in radiation work, the Government indicates that the reports on radiation received by these workers show either negligible or zero doses. While the Committee notes this information with interest, it nevertheless wishes to point out that *Article 8* of the Convention obliges every ratifying State to fix appropriate levels of exposure to ionizing radiations for this category of workers, in accordance with *Article 6,* read together with *Article 3, paragraph 1,* of the Convention, that is in the *light of knowledge available at the time.* In this respect, the Committee would draw the Government's attention to paragraph 14 of its 1992 general observation under the Convention as well as to section 5.4.5 of the ILO code of practice on the radiation protection of workers (ionizing radiations) of 1986, explaining that the employer has the same obligations towards workers not engaged in radiation work, as far as restricting their radiation exposure is concerned, as if they were members of the public with respect to sources of practices under the employer's control. The annual dose limits should be those applied to individual members of the public. According to the 1990 ICRP Recommendations, the annual dose limit for members of the public is 1 mSv. The Committee therefore asks the Government to indicate the measures envisaged to fulfil its obligation under this Article of the Convention.

Article 9. The Committee notes with interest the information supplied with the Government's report on the functions of the alarm systems used in those unites at hospitals where radiation treatment is carried out. It also notes the existence of appropriate warning signs fixed on the doors to indicate the presence of hazards arising from ionizing radiations. However, with regard to adequate instructions of workers directly engaged in radiation work, the Committee calls again the Government's attention to section 2.4 of the 1986 ILO code of practice on the radiation protection of workers (ionizing radiations) which contains general principles for informing, instructing and training of workers. The Government is requested to indicate the measures taken or envisaged to ensure that workers are adequately instructed in the precautions to be taken for their protection in conformity with *Article 9, paragraph 2,* of the Convention.

Article 11. The Committee notes the Government's indication to the effect that the workers designated to perform radiation work are presently monitored by TLD radiation monitoring badges supplied by the universities of the West Indies. The Committee requests the Government to explain more in detail the characteristics of this specific monitoring and the manner in which it is carried out.

Article 12. With regard to appropriate medical examination of workers directly engaged in radiation work, the Government indicates that a medical examination is still a prerequisite for an appointment to the public service. In addition, all workers assuming duties at the hospital are tested subsequently after they have taken up their work on a voluntary basis. In this respect, the Committee wishes to underline that subsequent medical examinations of workers directly engaged in radiation work have to be carried out on a mandatory basis and thus cannot be left to the discretion of the workers concerned whether or not they want to undergo a medical examination once they have been employed. The Government is accordingly requested to indicate the measures taken or envisaged ensuring that all workers engaged in radiation work are obliged to undergo appropriate medical examinations, not only prior to their employment, but also subsequently at appropriate intervals.

Article 13. With regard to the measures to be taken in emergency situations, the Government indicates that no such measures are in place yet, but that it is hoped that the development of emergency plans will be one of the tasks of the proposed regulatory body. In this respect, the Committee states that the ACRP is responsible, inter alia, to prepare a detailed radiation protection programme for Barbados (point (3) of the Advisory Committee on Radiation Protection – Terms of reference). The Committee thinks that the preparation of measures to be taken in emergency situations would form an integral part of its task. The Committee therefore hopes that the ACRP will resume its functions in the near future and that it will, within the framework of its duties, elaborate plans for emergency situations. To this effect, the Committee invites the Government again to refer to its 1987 general observation under the Convention as well as to paragraphs 16 to 27 of its 1992 general observation under the Convention concerning occupational exposure during and after an emergency which intend to give guidance regarding the measures to be taken in emergency situations. The Committee hopes that the Government will report on any progress made in this respect.

Article 14. In absence of any additional information regarding alternative employment of workers with premature accumulation of their lifetime dose, the Committee requests once again the Government to indicate whether and, if so, under which provisions, it is ensured that a worker who is medically advised to avoid exposure to ionizing radiations is not assigned to work involving such exposure, or is transferred to another suitable employment if he or she has already been assigned.

Brazil (ratification: 1966)

With regard to its previous observation, the Committee notes the information provided in the Government's report.

Article 3, paragraph 1 and Article 6, paragraph 2 of the Convention. The Committee notes the Government's information indicating that the subject of ionizing radiation comes within the competence of the National Committee on Nuclear Energy (CNEN). The Ministry of Labour has sole competence for the development of labour standards. The Standing Joint Tripartite Committee (CTPP) is the competent body for dealing with issues connected with occupational safety and health. According to the Government, the CNEN is launching the procedure for revising CNEN Standard NE 3.01 – Basic Guidelines concerning Radiation Protection. While noting the above information, the Committee is nevertheless bound to express its concern at the situation described in the present report in connection with the information provided in the previous reports. The Government indeed had indicated in previous reports that the body responsible for dealing with issues concerning ionizing radiation was the Coordinating Committee for Protection concerning the Brazilian Nuclear Programme (COPRON). According to the said information, a proposed legislative amendment had been sent to this body. The proposal would take into consideration the 1990 Recommendations of the International Commission on Radiological Protection (ICRP), reflected in the International Basic Safety Standards for Protection again Ionizing Radiation, published in 1994. The Committee would be grateful if the Government would indicate in its next report which national body is actually responsible for regulating the issues mentioned and indicate whether the procedure for revision of national legislation on protection against ionizing radiation has actually been initiated. The Committee would be grateful if the Government could find the appropriate solution to the problems of competence which appears to occur between the national bodies responsible for revision of legislation on protection against ionizing radiation and consequently proceed with the said revision, taking into account the 1990 ICRP Recommendations, reflected in the International Basic Safety Standards for Protection against Ionizing Radiation, published in 1994. The Committee hopes that the Government will be able to provide information in its next report on the progress made in this regard.

The Committee recalls that in its previous observation reference had been made to the comments made by the National Commission of Workers in Nuclear Energy (CONTREN) concerning working conditions in the nuclear industry. Noting the Government's observations on this matter, the Committee had requested the Government to provide information on data registered within the framework of the actions taken to assess the situation in the nuclear industry and the changes that need to be made. The Committee also asked the Government to indicate whether collective agreements which would establish new conditions of work in the nuclear energy industry had been concluded and, if so, to send copies to the Office. Given that the Government has not communicated any of the information requested, the Committee repeats its request and hopes that the Government will communicate the said information with its next report.

[The Government is asked to report in detail in 2002.]

Denmark (ratification: 1974)

1. The Committee notes with satisfaction that the State Institute for Radiation Hygiene of the National Board of Health (SIS) has issued Order No. 823 of 31 October 1997, on dose limits for ionizing radiation, which has been elaborated on the basis of the European Community Directive 96/29 EURATOM, and which, for its part, is in line

with the Recommendations adopted by the International Commission on Radiological Protection (ICRP) in 1990. Section 3 of the above Order, read together with its Annex I, reflects entirely the dose limits recommended by the ICRP for occupational exposure to ionizing radiations of the different categories of workers, which thus applies *Article 3, paragraph 1, and Article 6, paragraph 2, of the Convention.*

2. *Scope of emergency work.* The Committee notes with satisfaction that section 6 of Order No. 823 of 31 October 1997, repealing Notification No. 838 of 1986, limits the scope of emergency interventions where exceptional exposure of workers is justified to life-saving actions, actions necessary to prevent a significant exposure to radiation of the public, or to prevent the development of a catastrophe. Moreover, section 6 fixes the exposure levels at 50 mSv during an emergency, which is even lower than the dose limit recommended by the ICRP for the carrying out of immediate and urgent remedial work.

The Committee is addressing a request directly to the Government on another point.

Germany (ratification: 1973)

With reference to its previous comments, the Committee notes with satisfaction the revision of the Atomic Law, the Ordinance on Radiation Protection and the X-Ray Ordinance, which incorporate into national law the dose limits recommended in 1990 by the International Commission on Radiological Protection (ICRP) and thus applying *Article 3, paragraph 1, and Article 6, paragraph 1, of the Convention.*

Guinea (ratification: 1966)

1. The Committee notes the information provided by the Government in reply to its comments. The Government indicates that a draft Order respecting air pollution, noise and vibration, cesspools, drinking water and protection against radiations had been prepared, but was subsequently separated into several draft Orders to make them more easily applicable. These draft Orders should have been adopted some time ago. However, the Advisory Commission on Labour and Social Legislation, as a tripartite commission, is composed of various members with very different concerns and sometimes constraints at the national level, which prevented it from completing its usual session. Furthermore, the Government states that the State of Guinea has priorities, even with regard to the adoption of laws and regulations. The Committee states that the Government has been expressing the intention for many years of adopting regulations to protect workers against ionizing radiations, without however in practice taking the necessary measures to this effect. It notes with regret that the Government's attitude disregards the urgency of taking the necessary legislative action for the adoption of regulations respecting protection against ionizing radiations. In this respect, the Committee recalls that this Convention was ratified by Guinea in 1966 and that since then the Committee has had to comment on various points concerning the application of the Convention. The Committee recalls that, when the Government takes the sovereign decision to ratify a Convention, it undertakes to adopt all the necessary measures to give effect to the provisions of the Convention in question. The Committee also considers that, while the Government may cite the existence of other matters which must take priority in the adoption of laws and regulations, it would be appropriate after the number of years that have elapsed for it to take the necessary measures to ensure that the draft

Orders relating to the application of the provisions of this Convention are adopted as soon as possible. The Committee therefore once again hopes that the Government will soon be in a position to report on the adoption of provisions covering all activities involving the exposure of workers to ionizing radiations in the course of their work and in conformity with the dose limits referred to in its general observation of 1992, in the light of current knowledge, such as that contained in the 1990 Recommendations of the International Commission on Radiological Protection (ICRP) and in the Basic Safety Standards for Protection Against Ionising Radiation and for the Safety of Radiation Sources of 1994.

2. Further to its previous comments, the Committee once again draws the Government's attention to the following points.

Articles 2, 3, paragraph 1, 6 and 7 of the Convention. In its previous comment, the Committee noted the Government's statement that the current dose limits correspond to an equivalent of an annual dose of 50 mSv for persons exposed to ionizing radiations. The Committee had recalled the maximum dose limits for ionizing radiations established in the 1990 Recommendations of the International Commission on Radiological Protection and in the 1994 Basic International Safety Standards for Radiation Protection. For workers directly engaged in work exposed to radiation, this limit is 20 mSv per year averaged over five years (100 mSv over five years), and the actual dose must not exceed 50 mSv in any year. The Committee also draws attention to the dose limits envisaged for apprentices aged from 16 to 18 years, set out in Annex II, paragraph II-6, of the 1994 Basic International Safety Standards for Radiation Protection.

The Committee once again hopes that the maximum doses and quantities to be included in the Government's draft Order will be in conformity with the maximum permitted doses and quantities, and that the Government does indeed envisage adopting the above draft Order.

Situations of exposure in emergencies; provision of alternative employment. The Committee once again requests the Government to indicate the measures which have been taken or are envisaged in relation to the points raised in paragraphs 35(c) and (d) of the conclusions of its 1992 general observation under this Convention.

India (ratification: 1975)

The Committee notes the information provided with the Government's report. Further to its previous observation, it draws the Government's attention to the following points.

1. *Articles 3, paragraph 1 and 6, paragraph 2, of the Convention.* The Committee notes the Government's indication that the revision of the Radiation Protection Rules, 1971 is still in progress, but that the Atomic Energy Regulatory Board (AERB), being the responsible body for the revision of the above Rules, has implemented in the intervening time the latest Recommendations of the International Commission on Radiological Protection (ICRP) concerning permissible levels of exposure to ionizing radiations by means of safety directives. With regard to the dose limits prescribed, the Government indicates that the AERB lowered the annual permissible dose limit of 30 mSv to 10 mSv per year as from 1 January 1999. The Committee notes with interest the new annual dose limit for workers directly engaged in radiation work, since this dose

limit is in line with the annual dose limit of 20 mSv prescribed by the ICRP in its 1990 Recommendations to which the Committee refers in its 1992 general observation under the Convention. It accordingly hopes that the dose limit will be maintained in the revised Radiation Protection Rules. The Committee further notes the Government's indication that all cases of exposure above 20 mSv per year were reviewed by an Apex Committee of Specialists. The Committee notes this information with interest and requests the Government to explain the influence of the above-described review of exposure on further exposure of workers to ionizing radiations. It also requests the Government to supply a copy of the Safety Directives currently in force. Finally, while hoping that the new Radiation Protection Rules will be adopted in the near future, the Committee asks the Government to transmit a copy as soon as they are adopted.

2. With reference to the comments of the All India Trade Union Congress (AITUC) complaining about the lack of effective enforcement of the legislation on radiation protection by the AERB, owing to organizational weakness, the Government indicates that the Atomic Energy Regulatory Board's Safety Directives are effectively enforced in various radiation installations and that the AERB issued in November 1996 a manual on radiation protection for nuclear facilities which addresses, inter alia, the regulatory requirements with respect to the employment of temporary workers, as well as the issue of appropriate medical examinations of workers in nuclear installations. The Government further states that all aspects of the enforcement of radiation protection are constantly reviewed by the AERB through a multi-tier process and that compliance with the provisions of the Radiological Safety Directives is monitored by an independent health physics unit. The records on doses received by workers are maintained by nuclear facilities and are being checked during regular inspections. In this context, the Government says that compliance with regulatory requirements by radiation installations has been satisfactory. The Committee, taking note of the information, requests the Government to supply, with its next report, extracts from official reports, including for example inspection reports, in order to enable the Committee to appreciate the manner in which the radiation protection legislation is enforced in practice by the AERB. The Government is also requested to transmit a copy of the manual on radiation protection issued by the AERB in November 1996.

The Committee is raising certain questions in a request addressed directly to the Government.

Iraq (ratification: 1962)

The Committee notes the information supplied with the Government's report. It notes that the report does only contain a few new elements in reply to comments it has been made since 1992. The Committee is therefore bound to draw again the Government's attention to the following points.

1. *Articles 3, 4, 5, 6, 7 and 8 of the Convention.* The Committee had noted in previous comments that the provisions found in Act No. 99 of 1980 concerning protection against ionizing radiations does not specify detailed measures necessary for the application of the Convention, but does provide for instructions to be established ensuring implementation of the Act. With regard to the issuing authorities, section 10 of the above Act empowers the Radiation Protection Board to issue these instructions concerning measures to be taken to prevent accidents. In this context, the Committee

notes the Government's indication that the authority responsible for radiation protection has issued circulars indicating the limits of safe exposure to radiation, in application of section 8 of Act No. 99, 1980, proving for the responsibility of the Radiation Protection Board to set maximum dose limits permissible for exposure to ionizing radiations. The Committee requests the Government to supply a copy of these circulars for further examination to enable the Committee to determine whether the limits prescribed in these circulars cover the different categories of workers, in accordance with *Articles 7* and *8* of the Convention.

As concerns protective measures to be taken when exposed to radiation, the Committee had noted in previous comments that section 8 of Act No. 99, 1980, obliges the Radiation Protection Board to issue, inter alia, the necessary instructions in this regard. The Government accordingly is requested to indicate the steps taken or being considered in this regard to ensure effective protection of workers against ionizing radiations and to restrict the exposure of workers to the lowest practicable level avoiding any unnecessary exposure, as prescribed under *Article 3, paragraph 1, Article 5 and Article 6, paragraph 2*, of the Convention.

Article 9. The Committee notes the Government's indication to the effect that this Article of the Convention is applied on the basis of instructions and Recommendations issued by the Radiation Protection Centre. However, there are no legal texts specifically covering this matter. In this respect, the Committee notes again section 107 of the labour code providing for the employer's obligation to inform workers in writing, prior to their assignment, of the occupational hazards involved in the work in question and the protective measures to be taken. By virtue of this section, the employer must also post instructions concerning occupational dangers and the protective measures to be taken, in accordance with instructions drawn up by the Minister of Labour and Social Affairs. The Committee asks the Government to enlighten the character of the instructions and Recommendations issued by the Radiation Protection Centre, particularly with a view to their impact and their possible binding effect, although they do not constitute legal texts. The Government is also requested to provide copies of the above instructions and recommendations for further examination.

Article 11. The Committee notes the Government's indication that section 11 of Act No. 99, 1980, concerning inspection, and section 12, specifying the obligations of the owner of an ionizing radiation source, cover the matters dealt with in this Article of the Convention. The Committee therefore points out that *Article 11* of the Convention calls for appropriate monitoring of workers and places of work to evaluate the exposure of workers to ionizing radiations and radioactive substances, with a view to ascertain that the levels of exposure fixed by the competent authority are observed. The Committee ventures to call the Government's attention to paragraphs 17 to 19 of the Radiation Protection Recommendation, 1960 (No. 114), which propose a number of measures to be taken in this connection. The Government is requested to indicate the measures taken or envisaged in order to ensure that both workers and places of work are appropriately monitored in order to determine whether the dose limits fixed are respected.

Articles 12 and 13(a). Further to its previous comments, the Committee notes again section 12, subsection 5 of Act No. 99, 1980, providing that owners of a source emitting ionizing radiations shall submit exposed workers to preliminary and periodic medical examinations in conformity with the instructions. In its report for 1986, the

Government had indicated that instructions had been established providing for pre-employment and periodic medical examinations. The Committee notes with regret that the Government did not transmit yet a copy of these instructions. The Government is once again requested to supply a copy of these instructions in order to enable the Committee to examine the type and nature of the examinations required as well as the circumstances in which, because of the nature or degree of exposure or both, workers shall undergo appropriate medical examinations.

2. With reference to its previous comments, the Committee recalls that, under *Article 2, paragraph 1*, this Convention applies to all activities involving exposure of workers to ionizing radiations in the course of their work. In the direct requests the Committee has addressed to the Government since 1982, it had noted that Act No. 99, 1980, under the terms of section 2, only applies to the use of radiation sources for peaceful purposes. The Government had indicated in its report for 1986 that a permanent central committee had been established to examine cases of radiation exposure on a regular basis. It further indicated that workers engaged in research were covered by Act No. 99 Section IV of Instructions No. 1 issued by the Radiation Protection Board provides that the Centre for Radiation Protection will examine each case where persons not covered by Act No. 99 present a request to the Radiation Protection Board. The Centre will transmit its recommendations in this regard to the Board, which shall then make an appropriate decision. The Government is again requested to indicate the manner in which the provisions of this Convention are applied to activities not covered by Act No. 99, in particular, in respect of defence work involving exposure to ionizing radiations. Furthermore, the Government is again requested to provide additional information on the composition and competence of the Centre for Radiation Protection, as well as its duties, responsibilities and enforcement powers.

3. Finally, the Committee calls once again the Government's attention to paragraphs 16 to 27 and 35(c) of its 1992 general observation under this Convention concerning occupational exposure during and after an emergency. The Government is again requested to indicate whether, in emergency situations, exceptions are permitted to the normally tolerated dose limits prescribed for exposure to ionizing radiations and, if so, to indicate the exceptional levels of exposure allowed in such circumstances and to specify the manner in which these circumstances are defined.

The Committee urges the Government to take the necessary measures in the near future to ensure that effect is given to the provisions of the Convention.

Latvia (ratification: 1993)

The Committee notes with interest the Government's indication that following the ratification of the Convention, a Tripartite Labour Protection Advisory Council has been established in which representatives of state institutions, employers and workers cooperate on issues concerning the application of the Convention. It further notes with interest the adoption of numerous regulations and orders on issues related to radiation protection, in particular the adoption of Regulations No. 297 of 12 August 1997 on the protection against ionizing radiation. In this connection, the Committee notes the Government's indication that it is planned to replace the Radiation Protection and Nuclear Safety Act of 1 December 1994 by a new law with the same name, that the draft law has been already submitted to Parliament, and that its adoption was expected for

September 2000. As to the content of the draft law, the Government indicates that the provisions are based on the requirements set forth in the respective documents of the ILO and the International Atomic Energy Agency, and that it contains provisions eliminating the outdated system of supervision, particularly in the field of medicine. The Committee hopes that the Government will provide information on developments in this regard and supply a copy of the new Act on Radiation Protection and Nuclear Safety once it is adopted.

The Committee is addressing a request on certain other points directly to the Government.

Norway (ratification: 1961)

The Committee notes the comments made by the Norwegian Federation of Trade Unions (LO), transmitted by the Government in January 2001. While awaiting the Government's reply, the Committee refers to the comments made by the above workers' organization in this observation.

1. As a general statement, the LO emphasizes that the ministry, when initiating legislative processes, should make an active effort to incorporate ratified ILO Conventions into Norwegian law, so that the implementation of the ILO Conventions, to which the country is a party, is not only a side effect of the implementation of its obligations under other international legal systems.

2. *Article 13 of the Convention. Emergency exposure situations.* In its comments, the LO complains that Norwegian legislation lacks rules or guidelines indicating what action should be taken in emergency situations in enterprises where workers are exposed to ionizing radiation. The Committee recalls that the Government had indicated in its previous report of 2000 that, while there were no regulations or codes of practices fixing dose limits for workers' exposure in emergency situations, the Norwegian Radiation Protection Authority (NRPA), being the competent authority to issue regulations on radiation protection, had established so-called "non-legislative emergency planning documents" which reflect the Recommendations adopted by the International Commission on Radiological Protection (ICRP) in 1990 as concerns the limits for workers' exposure to ionizing radiation in emergency situations. Taking into consideration the comments transmitted by the LO, the Committee requests once again the Government to indicate the measures taken or envisaged to guarantee that the "non-legislative emergency planning documents" are available in every enterprise where workers are exposed or likely to be exposed to ionizing radiation. The Committee further requests the Government to indicate the measures taken or contemplated as concerns the establishment of emergency plans regarding the design of protective features of the workplace and equipment, as well as the development of emergency intervention techniques. In this respect, the Committee refers to paragraphs 6.1 to 6.3.7 of the 1987 ILO code of practice on radiation protection of workers (ionizing radiations), which contains a set of practical recommendations which could provide guidance to the Government.

3. *Article 14. Alternative employment.* With regard to the provision of alternative employment, the LO points out that the Norwegian legislation lacks rules concerning the workers' right to relocate and to change jobs in the event of danger arising out of exposure to ionizing radiation. The Committee recalls that the Government, in its

previous report, indicated that neither regulations nor codes of practice exist dealing with the issue of alternative employment. In the light of the comments of the ILO, the Committee once again draws the Government's attention to paragraphs 28 to 34 and 35(d) of its 1992 general observation under the Convention, explaining that every effort must be made to provide workers with suitable alternative employment, or to maintain their income through social security measures or otherwise where continued employment in a particular job involving the exposure to ionizing radiation is contra-indicated for health reasons. It requests the Government to indicate the measures taken or contemplated to ensure effective protection of workers who have accumulated exposure beyond which an unacceptable risk of detriment is to occur and who may thus be faced with the dilemma that protecting their health means losing their employment.

The Committee is also addressing a request directly to the Government on certain other matters.

[The Government is asked to report in detail in 2003.]

Paraguay (ratification: 1967)

The Committee notes the information provided in the Government's report. It would draw the Government's attention to the following points.

1. The Committee notes that the Minister of Public Health and Social Welfare has issued various resolutions concerning workers' exposure to ionizing radiations, in particular in the health sector. It further notes the Government's indication that resolution No. 678 of 16 July 1979 establishing standards concerning the risks related to the use of X-rays and radiotherapy in medical applications, has been repealed. The maximum permissible doses of ionizing radiations which may be received from sources external or internal to the body and maximum permissible amounts of radioactive substances which can be taken into the body are now fixed by resolution No. 488/90, issued by the Minister of Public Health and Social Welfare, approving technical standards and a manual on radiological protection and nuclear safety in the health sector. The Committee, noting that only the health sector is covered by resolution No. 488/90, requests the Government to indicate the activities, other than those in the health sector, which involve exposure to ionizing radiation and to provide information on the measures taken or contemplated to ensure that the provisions of the Convention are applied to *all* workers exposed to ionizing radiations in the course of their work, in accordance with *Article 2 of the Convention.*

2. *Article 3, paragraph 1, Article 6, paragraph 1, and Article 4.* The Committee notes that article 54 of resolution No. 488/90 refers to the dose limits established by the International Commission on Radiological Protection (ICRP) in 1990 to ensure effective protection of workers, which also served as a basis for the International Safety Standards of 1994. Pursuant to article 55(a) of resolution No. 488/90, the annual dose limit of exposure to ionizing radiation for workers directly engaged in radiation work is 50 mSv. The ICRP however adopted in 1990 a value of 20 mSv as the annual dose limit averaged over five years (100 mSv), with the further provision that the effective dose should not exceed 50 mSv in any single year. With regard to the dose limits for pregnant women once the pregnancy is declared, article 58 in conjunction with article 66 of the above resolution provides for a dose limit which is three-tenths of the dose limits established for radiation workers, thus 15 mSv per year. The Committee would therefore

draw the Government's attention to the explanations given in paragraph 13 of its 1992 general observation under the Convention where it referred to the Recommendations of the ICRP. In its current Recommendations, the ICRP recommends that the methods of protection at work for women who may be pregnant should provide a standard of protection for any unborn child broadly comparable with that provided for members of the general public, which are not to be exposed to more than 1 mSv. Once the pregnancy is declared, a supplementary equivalent dose limit of 2 mSv should be applied to the surface of the abdomen (lower trunk) for the remainder of the pregnancy. In this respect, the Committee notes with interest the Government's indication that in practice the dose limits adopted by the international organs are applied. At present, the Minister of Public Health and Social Welfare has submitted a draft law, which reflects the dose limits adopted by the ICRP in 1990. The Committee therefore requests the Government to indicate the present status of the above draft law within the legislative process. It further would ask the Government to supply a copy of the above draft law as soon as it has been adopted.

3. *Article 5.* The Committee notes that pursuant to article 54 of resolution No. 488/90, the objectives of effective radiation protection are determined by the application of the terms "justification", "optimization" and "limitation of individual doses", in conformity with the requirements set forth by the ICRP. It further notes that the above terms are defined in the introductory remarks to article 54 of resolution No. 488/90. However, this resolution as well as the other legislative texts adopted, neither do they really require that every effort has to be made to restrict the exposure of workers to the lowest practicable level, nor do they provide that any unnecessary exposure must be avoided by all parties concerned. The Committee therefore requests the Government to indicate the measures taken or contemplated to restrict workers' exposure to the lowest practicable level, and to ensure that any unnecessary exposure to ionizing radiations is avoided. In addition, the Committee asks the Government to explain the legal nature of the introductory remarks to each chapter of resolution No. 488/90, and to indicate in particular whether these remarks are binding and can therefore be used as a basis for legal claims.

4. *Article 6, paragraph 2.* The Committee notes that article 54 of resolution No. 488/90 refers to the dose limits established by the ICRP in order to optimize the protection of workers against ionizing radiations. The Committee understands from the above that the Government is obliged to review the maximum permissible dose limits established in the light of the current knowledge in order to comply with the dose limits adopted by the ICRP in 1990. In this respect, it notes again the Government's indication that a draft law is being prepared following the new dose limits adopted by the ICRP in 1990. The Committee hopes that the draft law will be adopted in the near future reflecting the current dose limits recommended by the ICRP concerning exposure to ionizing radiations.

5. *Article 7, paragraph 1(a).* Pursuant to article 55(a) of resolution No. 488/90, the dose limits for workers aged over 18 and who are directly engaged in radiation work is 50 mSv per year. The Committee recalls that the annual dose limit established by the ICRP for this category of workers is 20 mSv. The Committee accordingly hopes that the new draft law will be adopted in the near future and comply with the dose limit established by the ICRP which also served as a basis for the International Safety Standards of 1994.

6. *Part V of the report form.* The Committee notes the extracts of inspection reports which have been supplied with the Government's report, as well as the analysis of the results received by measurements carried out with dosemeters in order to supervise exposure to ionizing radiations of personnel employed at the "Centro de Imágenes Golden Center". The Committee invites the Government to continue to provide information on the practical application of the Convention in the country.

Sri Lanka (ratification: 1986)

The Committee notes with satisfaction the adoption of the Regulations on Ionising Radiation Protection of the Atomic Energy Safety Regulations No. 1 of 1999, which came into force on 28 June 2000, whose section 30 in conjunction with Annex III reflect the Recommendations of the International Commission on Radiological Protection (ICRP) adopted in 1990 and thus applies *Article 6, Article 7, paragraph 1, and Article 8 of the Convention.*

Moreover, the Committee raises other points in a request addressed directly to the Government.

Syrian Arab Republic (ratification: 1964)

The Committee notes the information supplied by the Government in its report. It notes with interest the adoption of Order No. 6514 of 8 December 1997, issued by the Council of Ministers, and Order No. 99/112 of 3 February 1999, issued by the Atomic Energy Commission, on the general protection against ionizing radiation. Further to its previous comments, the Committee would draw the Government's attention to the following points.

1. *Article 2, paragraph 1, of the Convention.* The Committee notes the indications of the Atomic Energy Commission annexed to the Government's report that it supervises the application of the provisions concerning the protection against ionizing radiation of workers in both the public and the private sector, in accordance with section 1 of Order No. 6514 of 1997. To this effect, the Atomic Energy Commission only needs information on the workplace where workers are exposed to radioactivity and the identity of the person responsible. In this context, the Committee notes that, pursuant to section 3 of Order No. 99/112 of 1999, the regulations on the general protection against ionizing radiation apply to all activities, which involve or could involve exposure of persons to ionizing radiations. In addition, according to section 6 of Order No. 6514 of 1997, the exercise of any activity in relation with ionizing radiation is subject to authorization, issued by the Atomic Energy Commission. Hence, no activity is excluded from the application of the provisions concerning the protection of workers against ionizing radiation. The Committee further notes that by virtue of section 10 of Order No. 99/112 of 1999, in well-justified cases the Atomic Energy Commission may grant exemptions from the particular requirements established for receiving the authorization. The Committee would request the Government to indicate whether such exemptions have been granted and, to specify the criteria which would justify such an exemption, in accordance with section 10 of Order No. 99/112.

2. *Article 3, paragraph 1, and Article 6, paragraph 1.* The Committee notes with interest that the Atomic Energy Commission has issued Order No. 99/112, in application

of section 4 of Order No. 6514 of 1997, which empowers the latter to issue regulations providing for protection and safety requirements in relation to all activities involving exposure of persons to ionizing radiations. In this respect, the Committee notes with interest that section 6(a), in conjunction with Annex II of Order No. 99/112 of 1999 provides for maximum permissible dose limits of the different categories of workers and the general public, which are consistent with the dose limits recommended by the ICRP in 1990 and which were reflected in the 1994 International Basic Safety Standards developed under the auspices of the IAEA, the ILO, the WHO and three other international organizations. However, by virtue of section 6(b) of the above Order, the established maximum permissible doses are not applicable in cases of authorized medical exposure. The Committee accordingly requests the Government to indicate the measures taken or contemplated to ensure effective protection of workers exposed to ionizing radiation under these conditions. It further requests the Government to indicate whether special dose limits for pregnant women workers directly engaged in radiation work have been established. If this is not the case, the Committee would invite the Government to consider the possible incorporation of special dose limits of exposure to ionizing radiations for pregnant women workers. In this respect, the Committee would draw the Government's attention to paragraph 13 of its 1992 general observation under the Convention referring to the pertinent values recommended by the ICRP, which would provide some guidance for the Goveranment in this matter.

3. *Article 7, paragraph 2.* The Committee notes the Government's indication that Order No. 1112 of 1973 has been repealed. While section 3 of Order No. 1112 of 1973 provided for a general interdiction to engage workers under the age of 16 in work involving ionizing radiations, Order No. 99/112 does not contain an equivalent provision prohibiting the employment of workers under the age of 16 in radiation work. The Committee further notes that, according to the Government, a new order concerning the protection of workers against ionizing radiations will be adopted and promulgated soon replacing Orders Nos. 269 of 1977 and 1112 of 1973. The Committee therefore requests the Government to indicate whether this order has been adopted yet and, if that is the case, to indicate whether it guarantees that young workers under the age of 16 cannot be engaged in work involving ionizing radiations. It also asks the Government to supply a copy of the new order upon its adoption.

4. *Article 8.* The Committee notes that Order No. 99/112 of 1999 does not contain provisions prescribing dose limits for non-radiation workers. However, paragraph 1(a) of Annex II to Order No. 99/112 establishes a permissible annual dose limit of 1 mSv for the general public, without indicating whether this value is equally applicable to workers who are not directly engaged in radiation work, but who remain or pass where they may be exposed to ionizing radiations. Referring once again to paragraph 14 of its 1992 general observation under the Convention, the Committee recalls that the employer has the same obligations towards workers not engaged in radiation work, as far as restricting their radiation exposure is concerned, as if they were members of the general public with respect to the sources or practices under the employer's control. Hence, the dose limits should be those applied to the individual members of the public, which is 1 mSv per year, in accordance with the Recommendations of the ICRP adopted in 1990. In this context, the Committee notes that only for persons who are visiting patients at hospital or working in hospitals as volunteers to provide help to the patients when the diagnosis is established and during their prescribed treatment, section 6 in conjunction with

paragraph 1(b), subparagraph 1 of Annex II to the Order No. 99/112 fixes a dose limit of 5 mSv for exposure to ionizing radiations. The Committee accordingly invites the Government to take the necessary measures to establish the dose limits for non-radiation workers, in conformity with the 1990 ICRP Recommendations. It requests the Government to indicate the measures taken or contemplated to revise the dose limits currently in force for the persons working in hospitals without being employed by the hospital in the light of the abovementioned ICRP Recommendations.

5. *Occupational exposure during emergency situations.* With regard to workers' exposure to ionizing radiations during emergency situations, the Government indicates that the Atomic Energy Commission in collaboration with the International Atomic Energy Agency in the framework of a pilot scheme to ensure protection against ionizing radiations in the East and West Asian countries, elaborates an emergency plan covering all levels of action (government, undertakings and laboratories). At an appropriate stage, the Atomic Energy Commission will invite all parties concerned to participate in the implementation of this emergency plan. The Committee, taking due note of the information, hopes that such emergency plans will be established in the near future. It requests the Government to supply information on any progress achieved in this respect.

6. *Part V of the report form.* The Committee notes the Government's indication that approximately 50 inspectors are assigned to supervise the strict application of the Convention, such as to evaluate the conditions in which the workers are exposed with regard to pollutants found in the working environment. These inspectors are empowered to take immediate steps to remedy the defects observed at enterprises concerning appliances or methods of work representing a danger for safety and health of the workers, in collaboration with the employer to maintain the workers' safety and health. Then, they draw up a minute indicating the infractions stated in order to bring the matter and the person responsible before the courts. However, if the inspector considers an infraction as not representing any danger, he nevertheless draws up a minute indicating the person responsible to bring this person before the courts so that adequate measures could be taken against him. The Committee, noting this development with interest, invites the Government to continue to supply information on the practical application of the Convention in the country.

United Kingdom (ratification: 1962)

The Committee notes with interest the adoption of the Ionising Radiations Regulations No. 3232 of 1999 (IRR 99), which replace the Ionising Radiations Regulations of 1985, except for the regulation 26 on special hazard assessments. It further notes with interest the code of practice designed to give guidance on the above Regulations, which has been approved by the Safety and Health Commission (HSC) with the consent of the Minister of State for the Environment, Transport and the Regions and came into force on 1 January 2000. In this respect, the Government indicates that the Approved Code of Practice (ACOP) has a special legal status and may be relied upon in a court of law. With regard to regulations on work with ionizing radiation in Northern Ireland, the Committee notes the Government's indication that regulations equivalent to the Ionizing Radiations Regulations No. 3232 of 1999 are presently in preparation. The Committee hopes that the revision of the Regulations on Ionizing Radiations 273/1985 (Northern Ireland) will be accomplished in the near future in order to guarantee equivalent levels of protection in the whole country. It requests the Government to provide information, in its next report, of any progress achieved in this respect.

Article 7, paragraphs 1 and 2, of the Convention. The Committee notes that, by virtue of regulation 19, paragraph 2(c), in conjunction with its paragraph 3, young persons below the age of 18 years are precluded from employment for work involving harmful exposure to radiation, except where it is: (i) necessary for training; (ii) the young person will be supervised by a competent person; and (iii) any risk will be reduced to the lowest level that is reasonable and practicable. It further notes that Regulation 11, paragraph 1 of the IRR 99, in conjunction with paragraph 3, of Schedule 4, Part I, to Regulation 11, fixes the dose limits of exposure to ionizing radiations for trainees aged under 18 years at 6 mSv per year. However, with regard to possible exposure to ionizing radiations, the Committee recalls that *Article 7* of the Convention distinguishes between young persons under the age of 18 years (*Article 7, paragraph 1(b)*) and workers under the age of 16 (*Article 7, paragraph 2*). According to *Article 7, paragraph 1(b)*, of the Convention read in the light of the explanations given in paragraphs 4.1.5 and 4.3.1.(b) of the ILO code of practice on radiation protection of workers (ionizing radiation), the dose limit of exposure to ionizing radiations for young persons under 18 years of age is three-tenth of the dose limits established for radiation workers, thus 6 mSv per year. While *Article 7, paragraph 2*, of the Convention provides for a general interdiction to engage young persons under the age of 16 in work involving exposure to ionizing radiations, the above dose limit applies only to young persons between the age of 16 and 18. In its report, the Government indicates that the IRR 99 implements the European Directive 96/29/EURATOM concerning basic safety standards and provides a high level of protection for workers under 16 whilst allowing them to take part in approved work experiences schemes, which play an invaluable role in preparing young people for the world of work, and at the same time ensures that they are not able to work in industrial undertakings which would result in significant exposure to ionizing radiation. Furthermore, the Government believes that the protection provided by IRR 99 and MHSWR 99 is sufficient to provide adequate protection for young persons under the age of 16. The Government however recognizes that the actual legislation in force does not provide a complete interdiction to engage workers under the age of 16 in work involving ionizing radiations as required by the Convention. The Government will therefore reconsider its position and consult with the social partners on the question of a general interdiction. The Committee, taking due note of this information, urges the Government to take appropriate action, in consultation with the social partners, towards the incorporation of a general interdiction to engage workers under the age of 16 in radiation work into national legislation, in conformity with this Article of the Convention.

The Committee raises certain points in a request addressed directly to the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Argentina, Belgium, Belize, Brazil, Chile, Denmark, Egypt, Germany, Guyana, India, Japan, Latvia, Lebanon, Mexico, Norway, Slovakia, Sri Lanka, Tajikistan, United Kingdom.*

Convention No. 117: Social Policy (Basic Aims and Standards), 1962

Brazil (ratification: 1969)

1. With reference to its previous observation, the Committee notes the information supplied by the Government concerning the quashing, on 11 April 2000, by the Pará Court of Justice, of the verdict of acquittal pronounced in the first trial in the case of three military police officers accused of the death of 19 landless workers in the region of Eldorado dos Carajás in 1996. It notes that a second trial is to take place and asks the Government to inform the International Labour Office on the subsequent developments in this regard.

2. The Committee notes the measures taken to improve the standards of living of the Brazilian people, most notably in the framework of the agrarian reform initiated in 1995. It notes, in particular, the settling of 372,866 families of landless rural workers (representing approximately 1,864,000 Brazilians) on plots of land granted by the National Institute for Colonization and Agrarian Reform (INCRA) from 1995 to 1999, including 101,000 families in 1998 alone, for a corresponding area of 13,204,789 hectares. It also notes that some 115,000 houses were built in the settlements, together with 9,475 kilometres of rural electricity grids; 27,191 kilometres of local roads; 1,283 wells; 736 dams; 108 stores; 458 community centres; 323 schools; and 366 health centres. The Committee also notes the detailed information concerning the agrarian reform projects initiated by the INCRA in the different states of the country.

3. The Committee notes the detailed statistical data concerning basic education, as well as the information concerning vocational training, in particular the activities of the National Programme for the Training of Workers (PLANFOR) created in 1995 and applied since 1996.

4. The Committee further notes the draft supplementary law authorizing states and the federal district to institute a minimum wage for employees who do not have a minimum wage defined under federal law or in a collective agreement or contract. It asks the Government to keep it informed of any development in this respect, and to provide the ILO with a copy of the above text.

In addition, a request regarding other points is being addressed directly to the Government.

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Kuwait (ratification: 1963)

The Committee notes the information provided in the Government's report in reply to its previous comments.

Article 8 of the Convention. The Committee wishes to recall that in its previous reports the Government referred to migrant workers employed in Kuwait. Therefore, it again asks the Government to provide, as the case may be, a copy of any agreement entered into with foreign countries for the purpose of regulating matters of migrant workers. The Committee recalls that such agreements should provide protection and advantages for migrant workers not less than those enjoyed by workers residing in the member State which ratified this Convention. The Committee hopes that the Government will take the necessary measures to provide the information herein requested.

Minimum wages

Article 10, paragraphs 2, 3 and 4. The Committee previously requested the Government to indicate whether minimum rates of wage are fixed in consultation with representatives of the employers and workers *(Article 10, paragraph 2)*, and what measures have been taken to ensure the enforcement of such minimum rates *(Article 10, paragraphs 3 and 4)*.

In its reply, the Government indicates that, although the Kuwaiti legislator did not fix minimum wages, a study is being conducted to examine the possibility of fixing the minimum wages in the draft Labour Code as amended. The Committee requests the Government to keep providing information on any development in respect of minimum wage fixing in the amended Labour Code and to supply a copy of any relevant text adopted in this regard.

Protection of wages

Article 11 of the Convention. In its previous comments, the Committee noted the Government's indications concerning measures taken to ensure the regular and timely payment of wages to workers. Among these measures, the Government referred to Ministerial Order No. 108 of 29 June 1994 extending the system of a bank guarantee and Ministerial Order No. 110 of 7 January 1995 issued to require the transfer of wages to a Kuwaiti bank on the prescribed date of payment. The Committee requested the Government to provide a copy of these ministerial orders as well as information on their application to migrant workers.

In its reply, the Government refers to a detailed explanation of Ministerial Order No. 110 of 1995 and of the provisions of Part VII of Act No. 38 of 1964 as being attached to its report. However, given that this documentation was not received, the Committee hopes that the Government will send in its next report a copy of this above detailed explanation, together with a copy of Ministerial Order No. 108 of 29 June 1994 and Ministerial Order No. 110 of 7 January 1995, that have been requested since 1995, and information concerning their application in practice with particular reference to migrant workers.

Article 12, paragraph 2. The Committee notes the Government's repeated indication that section 31 of the Labour Code in the private sector (Act No. 38 of 1964) provides that the maximum amount to be deducted from the worker's wage to repay his employers for advances on his wage shall not exceed 10 per cent of the worker's wage and that the employer shall not charge the worker any interest. The Committee wishes to point out that these provisions are insufficient to fulfil the specific requirements of *Article 12, paragraph 2*, of the Convention which, in addition to the manner of repayment of advances on wages, provides that the maximum amounts of advances on wages, including those which may be made to a worker in consideration of his taking up employment, shall be regulated by the competent authority. The Committee hopes that the Government will take measures to give full effect to these provisions of the Convention.

Article 12, paragraph 3. The Committee notes the Government's indication that the advances which are recoverable by law are regulated by the Civil Law. The

Committee requests the Government to provide a copy of the relevant texts of the Civil Law regulating advances on wages.

[The Government is asked to report in detail in 2002.]

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Requests regarding certain points are being addressed directly to the following States: *Bolivia, Brazil, Democratic Republic of the Congo, Guinea, Malta, Paraguay, Sudan.*

Convention No. 118: Equality of Treatment (Social Security), 1962

Barbados (ratification: 1974)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee refers to its previous comments which it has been making for a number of years and in which it pointed out that section 49 (in conjunction with section 48) of the National Insurance and Social Security (Benefits) Regulations of 1967 and section 25 of the Employment Injury (Benefits) Regulations of 1970, which deprive a beneficiary, when residing abroad, of his right to ask for his benefit to be paid directly to him at his place of residence, are contrary to the provisions of *Article 5 of the Convention*. The Committee would like again to point out that under this provision of the Convention, Barbados, which has accepted the obligations for *branch (e)* (old-age benefit), *branch (f)* (survivors' benefit), and *branch (g)* (employment injury benefit), among others, must guarantee both to its own nationals and to the nationals of any other Member that has accepted the obligations of the Convention in respect of the branch in question, when they are resident abroad, direct payment of the benefit to which they are entitled under such branch.
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> In its report, the Government maintains its position that it will for the time being continue to progressively implement the provisions of *Article 5* by way of reciprocal arrangements, which it has currently in place with Canada, Quebec, the United Kingdom, and CARICOM countries. The Government states however that it will take the necessary steps in the very near future to comply fully with this Article of the Convention. The Committee takes note of this statement. It recalls that under this Article of the Convention the payment of long-term benefits (other than those of the type referred to in paragraph 6(a) of *Article 2*) shall be guaranteed as of right to beneficiaries resident abroad, even in the absence of a bilateral or multilateral agreement. Therefore, the Committee hopes that, in accordance with the assurances given, the Government will not fail to include in the near future in the legislation a provision ensuring direct payment of old-age, survivors' and employment injury benefits to all entitled beneficiaries at their place of residence.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Central African Republic (ratification: 1964)

The Committee recalls that it has been commenting since 1968 on the issue of restrictions on payment abroad of employment injury benefit and old-age benefit, and that the matter has also been discussed on several occasions at the Conference Committee, the last one being in June 1993. On that occasion, the Government stated that it had prepared the necessary draft to amend the legislation and that it wished to receive ILO technical assistance in this respect. In its report of 1997, the Government again referred to the draft texts under preparation. However, no mention of this text is made in the Government's latest report received in August 2001, which indicates only that the Committee's comments have been transmitted to the General Directorate of the Central African Social Security Office (OCSS). The Committee regrets to note that no new measure affecting the application of the Convention has been taken by the Government. In these circumstances, the Committee again expresses the hope that the changes to the legislation mentioned by the Government since 1993 will be finalized and adopted in the very near future, by laws, regulations or other means, without the need for further reminders to be given to the Government. The Committee trusts that changes will be effected in legislation with a view to ensuring that full effect be given to the Convention with regard to the following points.

Article 4 (branch (g)) (Employment injury benefit). Section 27 of Act No. 65-66 of 24 June 1965 on industrial accident compensation should be supplemented by an express provision that in the case of a victim of an occupational injury who was a national of a State which has accepted the obligations of the Convention concerning employment injury benefit, his dependants (survivors), even if they were resident abroad at the time of the victim's death and continue to reside abroad, shall receive survivor's benefits, if it is proved that they were actually dependants at the time of his death.

Article 5 (branch (e)) (Old-age benefit). The national legislation should be amended to provide for payment of old-age benefit in case of residence abroad, both to nationals of the Central African Republic and to nationals of any other member State that has accepted the obligations of the Convention concerning branch (e).

Article 6 of the Convention. Section 1 of Act No. 65-57 of 3 June 1965 on family benefits needs to be amended so as to provide express guarantees, both for nationals of the Central African Republic and to nationals of any other Member which has accepted the obligations of the Convention for *branch (i)* concerning family benefits, for payment of family benefits for children residing on the territory of such other Member, under conditions and within limits to be agreed upon by the Members concerned. (To date, the countries which have accepted the obligations for *branch (i)* are: Bolivia, Cape Verde, France, Guinea, Ireland, Israel, Italy, Libyan Arab Jamahiriya, Mauritania, Norway, Netherlands, Tunisia, Uruguay and Viet Nam.)

The Committee draws the Government's attention to the availability of technical assistance of the Office.

[The Government is asked to report in detail in 2002.]

Democratic Republic of the Congo (ratification: 1967)

The Committee notes with regret that the Government's report has not been received for the sixth consecutive year. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous direct request, which read as follows:

> *Article 5 of the Convention.* In its previous comments on the transfer of benefits abroad, the Committee noted the Government's statement that two different cases should be distinguished: (a) where the beneficiary who is resident abroad had his remuneration transferred during his period of employment in the Democratic Republic of the Congo the benefits awarded to him are also transferred abroad upon simple request by the National Bank of the Democratic Republic of the Congo; (b) where the remuneration of the

beneficiary was not transferable abroad during the period of employment in the Democratic Republic of the Congo, the Bank of the Democratic Republic of the Congo may, after a special request has been made by the beneficiary or his delegate, or by the bank in which the account has been opened, give special authorization for the transfer of benefits. In its latest report, the Government refers in this connection to sections 176(1) and 179(1) of the current exchange regulations. The Committee notes, however, that although these provisions refer to the transfer of remuneration and bonuses, they do not appear to regulate directly the procedure for the transfer of benefits.

Furthermore, the Committee recalls that subsection 7(a) of section 50 of the Legislative Decree on Social Security of 1961 allows, subject to obligations undertaken in international agreements, the suspension of benefits where the beneficiary resides abroad. In these circumstances, the Committee hopes that the Government will be able to take the necessary measures (for example by issuing a circular) to ensure that the nationals of both the Democratic Republic of the Congo and of any other Member that has accepted the obligations of this Convention in respect of a given branch, as well as refugees and stateless persons, in the event of residence abroad, receive the long-term benefits provided under the branches accepted by the Democratic Republic of the Congo (invalidity, old age and employment injury), even if the beneficiary residing abroad did not benefit from the free transfer of his remuneration during his period of employment in the Democratic Republic of the Congo.

Articles 7 and 8. The Committee would be grateful if the Government would continue to provide information on the implementation of these provisions of the Convention, under which Members must endeavour, in particular through multilateral or bilateral agreements, to participate in schemes for the maintenance of acquired rights and rights in course of acquisition under their legislation.

Guinea (ratification: 1967)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows.

> With reference to its earlier comments, the Committee notes the information provided by the Government in its report and has examined Act L/94/006/CTRN of 14 February 1994 establishing the new Social Security Code.
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> *Article 5 of the Convention.* The Committee recalls that the Government, in its earlier reports, indicated that the new Social Security Code, when adopted, would give full effect to *Article 5* of the Convention under which the provision of old age benefits, survivors benefits and death grants, and employment injury pensions must be guaranteed in the case of residence abroad, irrespective of the country of residence and even in the absence of agreements with such country, both to nationals of Guinea and to nationals of any other State which has accepted the obligations of the Convention for the corresponding branch. However, in its last report, the Government indicates that the new Social Security Code does not entirely fulfil the requirements of the provisions of *Article 5* of the Convention, in that it does not provide for maintenance of payment of the various benefits in case of change of residence, and that this restriction is a constant feature of the legislation governing the field in the States in the subregion. However, the Government hopes that further negotiation of bilateral agreements with other States will make good this weakness in the Social Security Code.
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> In this connection, the Committee notes that under section 91, paragraphs 1 and 2, of the new Code, benefits are cancelled when the beneficiary definitively leaves the territory of the Republic of Guinea, or are suspended while she or he is not resident on national territory. It notes however that, under the last paragraph of that section, these provisions "are

not applicable in the case of nationals of countries which have subscribed to the obligations of the international Conventions of the International Labour Office regarding social security ratified by the Republic of Guinea, or where there are reciprocal agreements or multilateral or bilateral social security agreements on the provision of benefits abroad". Since, by virtue of this exception, the nationals of any State which has accepted the obligations of Convention No. 118 for the corresponding branch, may in principle now claim benefits in case of residence abroad, the Committee requests the Government to indicate whether this is in fact the case and, if so, whether a procedure for the transfer of benefits abroad has been established by the national social security fund, to meet the possible demands for such foreign transfer. In addition, the Committee requests the Government to state whether the exception provided in the last paragraph of the abovementioned section 91 is also applicable to Guinean nationals in the event of their transferring their residence abroad, in accordance with the principle of equal treatment established under *Article 5* of the Convention as regards the payment of benefits abroad.

Article 6. With reference to the comments it has been formulating for many years regarding the provision of family allowances in respect of children residing abroad, the Committee notes that, under section 94, paragraph 2, of the new Code, to obtain the right to family allowances, dependent children "must reside in the Republic of Guinea, subject to the special provisions of the international Conventions on social security of the International Labour Office, reciprocal agreements or bilateral or multilateral agreements". With respect to reciprocal agreements or bilateral or multilateral agreements, the Committee recalls that to date, Guinea has concluded no agreement of this sort for the payment of family allowances in respect of children residing abroad. Regarding the special provisions of the ILO Conventions, it recalls that under *Article 6* of Convention No. 118 any State which has accepted the obligations of the Convention for *branch (i)* (family benefit) must guarantee payment of family allowances both to its own nationals and to the nationals of any other member which has accepted the obligations of this Convention for that branch, as well as for refugees and stateless persons, in respect of children who reside on the territory of any such State, under conditions and within limits to be agreed upon by the States concerned. In this connection, the Government states in its report that "the payment of family benefits is guaranteed to families of whom the breadwinner has been regularly insured by the social security system, and is in order regarding the payment of his own contributions, and those of his successive employers". The Committee therefore hopes that the Government will be able to confirm formally in its next report that the payment of family allowances will also be extended to cover insured persons up-to-date with their contributions, whether they are nationals, refugees, stateless persons or nationals of any other States which have accepted the obligations of the Convention for *branch (i)*, whose children reside on the territory of one of these States and not in Guinea. The Committee would also like to know in these cases how the condition of residence is dispensed with for the application of section 99, paragraph 2, of the new Code, which only recognizes as dependent those children "that live with the insured person", and also for section 101, which makes payment of family allowances subject to an annual medical examination of the child, up to the age where she or he comes under the school medical service, and the regular medical care for beneficiaries of school age attending courses in educational or vocational training establishments.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

India (ratification: 1964)

The Committee recalls that, in accordance with *Article 2, paragraph 1, of the Convention*, out of nine branches of social security covered by the Convention, India has accepted the obligations of this Convention with respect to the following three branches:

(a) medical care, (b) sickness benefit, and (c) maternity benefit, for which it has in effective operation legislation covering its own nationals within its own territory. In its report the Government states that the Employee State Insurance Act 1948, as amended, currently administers four social security branches, including, in addition to the abovementioned three benefits, the employment injury benefit, and that "the law and procedure in respect of these benefits as contained in the ESI Act, the Rules and the Regulations framed thereunder conform to the requirements of the Convention". The report also provides information on the application of the Convention with respect to all four branches. The Committee notes this information with interest and would like to draw the Government's attention to the possibility of formally extending the application of the Convention to the employment injury benefit *(branch g)* provided in *paragraph 4 of Article 2*.

Iraq (ratification: 1978)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows.

> The Committee notes with regret that the Government's report of 1998 simply reproduces the text of its previous reports supplied in 1993, 1994 and 1997 and does not contain a reply to the Committee's previous comments. In this situation, the Committee cannot but repeat its previous observation which read as follows:
>
> *Article 5 of the Convention (Provision of benefits abroad).* Referring to its previous comments concerning the application of this provision of the Convention, the Committee notes the information contained in the Government's report as well as the discussions which took place in the Conference Committee in 1994. The Committee recalls that for several years it has been asking the Government to indicate the measures taken or contemplated with a view to removing numerous restrictions concerning payment of benefits abroad for Iraqi nationals as well as foreign nationals, contained in section 38 of the Workers' Pension and Social Security Law No. 39 of 1971 and in Instruction No. 2 of 1978 regarding payment of social security pensions to insured persons leaving Iraq, which are contrary to this provision of the Convention. In this respect, the Committee notes from the Government's report that the situation has remained unchanged. The Government's last report mainly reproduces the information contained in its previous report and in the statements made by the Government representative during the discussion of this case in the Conference Committee in 1993 and 1994, according to which, rules concerning the payment of benefits abroad are of a purely procedural nature and do not constitute restrictions on the payment of benefits conflicting with the Convention. The Committee refers in this respect to the request it is addressing directly to the Government in which it reviews in detail the effect on the application of the Convention of section 38 of the Workers' Pension and Social Security Law No. 39 of 1971 and Instruction No. 2 of 1978 respecting the payment of social security pensions to persons who leave Iraq.
>
> The Committee nevertheless notes, from the information supplied in the report and in the Conference Committee in 1994 by the Government representative, that the Government confirms its intention to study the possibility of modifying the national legislation and to pay benefits due to foreign workers, including Egyptian workers, who left Iraq in 1990, once the economic embargo imposed on Iraq is lifted, and after the release of Iraq's frozen assets in foreign banks and the improvement of Iraq's economic situation. In view of the fact that no payment of benefits abroad has yet been made, the Committee cannot but once again urge the Government to adopt in the near future measures ensuring the provision of long-term benefits in the case of residence abroad for Iraqi nationals and for nationals of other

countries which have accepted the obligations of the Convention in respect of the branch in question, as well as for refugees and stateless persons, and to remove the restrictions in this respect in the light of the more detailed comments contained in the Committee's direct request.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Suriname (ratification: 1976)

In its previous comments concerning *branch (g)* – employment injury benefit, for which Suriname has accepted the obligations of this Convention, the Committee noted that the benefits granted to nationals and non-nationals were subjected to the condition of residence, contrary to *Article 4 of the Convention*, there was no payment of benefits abroad, contrary to *Article 5*, and none of the social security benefits was applicable to refugees and stateless persons, contrary to *Article 10*. The Government states in its report that it is conscious of the fact that no progress has been made in the application of these provisions of the Convention and that the national social security scheme does not exist at present. It explains that questions concerning the establishment of the national social security scheme enter into the competence of the Ministry of Social Affairs, while the Ministry of Labour is required to cooperate to achieve progress. The report further states that the Ministry of Labour will take the necessary steps within its competence to bring the legislation into conformity with the Convention. The introduction of the national social security scheme has been temporarily suspended due to other problems in the social sector, which are considered more urgent by the Government.

While noting this information, the Committee hopes that the Ministry of Labour and the Ministry of Social Affairs will be able to cooperate closely in order to achieve rapid progress on these issues. It recalls that they were the subject of technical assistance in the social security field provided to Suriname during the 1990s by the ILO and UNDP with a view to instituting a national social security scheme and revising the labour legislation. The Committee expresses the hope that, as promised by the Government in its report, appropriate changes in the legislation will be adopted in the near future, so as to give full effect to the abovementioned provisions of the Convention. As regards the institution of the national social security scheme, the Committee wishes to draw the Government's attention to the high priority given to the objective of the extension of social security coverage to unprotected people in the conclusions concerning social security adopted by the 89th Session of the International Labour Conference in June 2001, and reminds the Government of the possibility to have further recourse to the technical assistance of the ILO in this area, if need be.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Cape Verde, Central African Republic, Guinea, Iraq, Mexico, Philippines, Tunisia, Uruguay*.

Information supplied by *Norway* in answer to a direct request has been noted by the Committee.

Convention No. 119: Guarding of Machinery, 1963

Democratic Republic of the Congo (ratification: 1967)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Articles 2 to 4 of the Convention.* For several decades the Committee has drawn the Government's attention to the absence of measures giving effect to the abovementioned Articles and to the need to make provision in the national legislation for, or to establish by other equally effective measures, the prohibition of the sale, hire, transfer in any other manner and exhibition of machinery of which the dangerous parts are without appropriate guards, with the obligation to respect this prohibition being placed on the person selling, hiring, exhibiting or transferring the machinery in any other manner, or on their representatives.
>
> In its reports, the Government referred on several occasions to a draft Order relating to the guarding of machinery and to the review of the Labour Code as part of which provisions designed to give effect to the Articles of the Convention in question would be adopted. The Committee notes that this position was confirmed by government representatives during the technical advisory mission conducted by the ILO in 1997.
>
> The Committee once again expresses the hope that in the very near future the Government will take all the necessary measures to ensure finally that the provisions of *Articles 2 to 4* of the Convention are applied.

Sierra Leone (ratification: 1964)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation with read as follows:

> For a number of years, the Committee has drawn the attention to the fact that national legislation does not contain provisions to give effect to *Part II of the Convention* (prohibition of the sale, hire, transfer in any other manner and exhibition of unguarded machinery) and that it does not provide for the full application of *Article 17* of the Convention (which applies to all sectors of economic activity), as it is not applicable to certain branches of activity, inter alia, sea, air or land transport and mining.
>
> Since 1979, in reply to the Committee's comments, the Government has indicated in its reports that a Bill to revise the 1974 Factories Act was being drafted and would contain provisions consistent with those of the Convention, and would apply to all the branches of economic activity. In its latest report (received in 1986), the Government indicates that the draft Factories Bill, 1985, has been examined by the competent parliamentary committee and is to be submitted to Parliament for adoption.
>
> With its report for the period ending 30 June 1991, the Government supplied a copy of extracts of the Factories Bill containing provisions which should give effect to *Part II* of the Convention. In this connection, the Government was requested to indicate the stage of the legislative procedure reached by the Bill and the body which was in the process of examination of the Bill. Since no information has been provided by the Government in this respect, the Committee once again expresses the hope that the abovementioned Bill will be adopted in the near future and requests the Government to provide a copy of this text, once it has been adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 120: Hygiene (Commerce and Offices), 1964

A request regarding certain points is being addressed directly to *Azerbaijan*.

Convention No. 121: Employment Injury Benefits, 1964

Bolivia (ratification: 1977)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In its previous comments, the Committee had expressed its hope that the Government would be able to supply detailed information not only in respect of the effects of the employment injuries provisions of the new Pensions Act No. 1732 of 29 November 1996 and its Regulation (Supreme Decree No. 24469 of 1997), but also on the legal provisions or regulations which ensure the application of the provisions of the Convention with respect, in particular, to medical care *(Article 12 of the Convention)* and temporary incapacity *(Article 13)*. The Committee notes that neither the Government's report nor the attached legislation do contain this information. Therefore, the Committee cannot but reiterate its request for a detailed report on the implementation of the new legislation with regard to employment injuries' long-term benefits and of the current legislation on medical care and short-term benefits in the light of the pertinent provisions of the Convention, including statistical data on the scope of application and the level of benefits as required by the report form approved by the Governing Body.
>
> In addition, after having examined the provisions of the Pension Act No. 1732 and the Supreme Decree No. 24469, the Committee wishes to draw, in particular, the Government's attention to the following provisions of the Convention.
>
> *Article 9(3)*. The Committee recalls that under this provision of the Convention benefit shall be paid throughout the contingency. It would like the Government to indicate how this provision has been implemented by the new legislation.
>
> *Article 16*. The Committee recalls that *Article 16* of the Convention provides for the payment of increments in periodical payments or other supplementary or special benefits for disabled persons requiring the constant help or attendance of another person. It would appreciate receiving additional information on how this provision of the Convention has been implemented by the new legislation.
>
> *Article 21*. The Committee recalls that invalidity and survivors' benefits currently payable must be reviewed periodically following substantial changes in the general level of earnings or substantial changes in the cost of living. The Committee would therefore like the Government to indicate how effect is given to this provision of the Convention.
>
> *Article 24*. The Committee recalls that *Article 24* of the Convention provides that representatives of persons protected shall participate in the administration of a pension system. It would like the Government to indicate how effect has been given to this provision of the Convention.
>
> *Article 27*. As articles 1, 3 and 5 of the Pensions Act refer to Bolivian citizens only, the Committee would like the Government to confirm that, according to article 109 of the Supreme Decree, all employees working in Bolivia are covered by compulsory insurance in the employment injury scheme regardless of their nationality.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Democratic Republic of the Congo (ratification: 1967)

The Committee notes with regret that for the third consecutive time the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In reply to the Committee's previous comments, the Government states that it is not currently in a position to provide information that would enable the Committee to assess the application of *Articles 13, 14* and *18* (in relation with *Articles 19* and *20*), as well as *Articles 21, 23* and *24(2) of the Convention*, in view of the difficult political and economic situation experienced by the country. With regard to the draft text to add to the schedule of occupational diseases, in accordance with *Article 8* of the Convention, diseases caused by the toxic halogen derivatives of hydrocarbons of the aliphatic series and diseases caused by benzene or its toxic homologues, the Government undertakes to transmit the extended schedule of occupational diseases as soon as it has been adopted by the National Labour Council.
>
> The Committee notes this information. It hopes that, despite the current difficulties, the extended schedule of occupational diseases will be adopted in the very near future in order to give full effect to *Article 8* of the Convention and that the Government will make every effort to provide information concerning the application of the other provisions of the Convention referred to above, as requested in its 1995 observation. The Committee would also be grateful if the Government would indicate any progress achieved in the formulation and adoption of the new Social Security Code.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Guinea (ratification: 1967)

The Committee notes with regret that for the third consecutive time the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. *Article 8 of the Convention.* The Committee notes with interest the Government's statement that in 1992 the National Social Security Fund together with the National Occupational Medicine Service revised the list of occupational diseases, increasing it from 13 to 29 items, thus aligning it with the list appended to Schedule I of the Convention, as amended in 1980. The Committee asks the Government to provide a copy of the list, indicating whether it is now in force.
>
> 2. *Article 15(1).* In answer to the Committee's previous comments, the Government indicates that, in accordance with the provisions of section 111 of the Social Security Code, periodical payments for employment injury are converted into a lump sum when the permanent incapacity is at most equal to 10 per cent. The Committee recalls, however, that its comments concerned the possibility of converting the benefit granted in the event of employment injury in the circumstances provided for in sections 114 (conversion after expiry of a five-year period) and 115 of the Social Security Code (conversion into a lump sum of part of the periodical payment at the request of the person concerned). The Committee again expresses the hope that the necessary measures wil. be taken to ensure that in all these cases periodical payments may be converted into a lump sum only in exceptional cases and with the consent of the victim where the competent authority has reason to believe that the lump sum will be utilized in a manner which is particularly advantageous for the injured person.

3. *Articles 19 and 20.* The Committee notes the Government's reply. It notes however that the Government's report does not contain the statistical information requested which the Committee needs so that it can determine whether the amount of benefits paid in the event of temporary incapacity, permanent incapacity and death of the breadwinner, reaches the level prescribed by the Convention. In these circumstances the Committee once again asks the Government to indicate whether it avails itself of *Article 19* or of *Article 20* of the Convention in establishing that the percentages required by Schedule 2 of this instrument have been reached, and to provide the statistical information required by the report form adopted by the Governing Body under *Article 19* or *20*, depending on the Government's choice.

4. *Article 21.* In answer to the Committee's comments, the Government states that it has increased the benefits so as to ensure better coverage for victims of occupational accidents; furthermore, studies are under way with a view to a further increase in order to take fuller account of the economic context. The Committee notes this information. In view of the importance it attaches to this provision of the Convention which establishes that the rates of employment injury benefits must be reviewed to take account of trends in the cost of living and the general level of earnings, the Committee hopes that the Government's next report will contain information on the amount of the increases already established and that it will not fail to provide all the statistics required by the report form under this Article of the Convention.

5. *Article 22(2).* The Committee once again expresses the hope that the Government will be able to take the necessary measures to ensure that, in all cases where employment injury benefits are suspended and particularly in the cases provided for in sections 121 and 129 of the Social Security Code, part of these benefits will be paid to the dependants of the person concerned in accordance with the provisions of this Article of the Convention.

6. The Committee notes the Government's statement that the provisions of the Conditions of Service of the Public Service give public servants and their families full satisfaction as regards social coverage. It once again asks the Government to provide the text of the provisions of the above Conditions of Service dealing with compensation for employment injury with its next report.

7. Lastly, the Committee asks the Government in its future reports to provide information on any progress made in the revision of the Social Security Code, to which the Government referred previously.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Croatia, Slovenia.*

Convention No. 122: Employment Policy, 1964

Australia (ratification: 1969)

The Committee notes with interest that the Government has amended the Workplace Relations Act with the aim of promoting employment by accommodating the needs of workers, particularly older workers and women. The amendments permit employers and workers to negotiate alternative working arrangements, such as job sharing, part-time work and gradual phasing in of retirement. An employer is now prohibited from firing an older worker unless he or she can prove that the age limit is an inherent requirement of the job; and compulsory retirement at 65 years of age in the public sector has been abolished. There are also special programmes to help the re-entry of people who have left the labour market to care for others. The Committee would appreciate continuing to receive information on the impact of the Workplace Relations Act on employment promotion.

Brazil (ratification: 1969)

1. The Committee notes the comprehensive and detailed report supplied by the Government in reply to its 1998 observation. The Government indicates that the unemployment rate jumped from approximately 5.4 per cent (1996 and 1997) to almost 7.5 per cent (1998 and 1999). The expansion of some 4.5 per cent in the GNP (PIB) in 2000 and a decrease in inflation helped to decrease unemployment slightly (7.1 per cent in 2000, 4.6 per cent in Sao Paulo and 3.3 per cent in Rio de Janeiro). The Government states that its objectives concerning macroeconomic policies are to control inflation, promote sustainable growth and continuously improve living conditions. The process of opening up the economy has had positive effects on the accumulation of capital, reflected in improved efficiency and productivity of labour and a reduction in the long term of the external restrictions placed on economic growth through enhanced competitiveness of the national economy. The Government has taken steps to integrate public employment and income policies through the Employment Action Management Information System (SIGAE). The Committee would appreciate receiving indications on how the structural reforms undertaken and the consequences of regional financial crises have affected the labour market. Please also continue to supply information on how macroeconomic and monetary policies take into account the employment policy objectives of *Articles 1 and 2 of the Convention.*

2. The Government states in its report that there had been an overall decrease in the effectiveness of the unemployment insurance placement system, due partly to an increase in the number of registered unemployed. Only 40 per cent of vacancies get filled, indicating a high mismatch and limited availability of appropriate training. However, the Government has undertaken an innovative project to establish employment service agencies in partnership with worker and employer representative bodies. The pilot was launched in 1998, with agencies established in several trade unions. This programme resulted in an increase in 1999 in placements made by the National Employment Offices (SINE). The Committee notes this information with interest. It would appreciate continuing to receive information on the outcome of this programme and any plans to expand it, as well as information on any plans to expand the number of SINE offices.

3. In a direct request, the Committee raises other issues concerning the application of the Convention on the informal economy, the achievements of some programmes implemented by the Government and the consultations in the Worker Protection Fund (FAT).

Costa Rica (ratification: 1966)

The Committee notes the Government's reports in which it refers to the matters raised in the 1998 observation.

1. The Government indicates that in 1998 an economic growth rate of 6.2 per cent was achieved (the second highest in the whole of America), with the creation of 73,000 new jobs and a decrease in poverty of 19.7 per cent, according to the National Household Survey. As from the second quarter of 1999, there was a certain weakening in economic activity: in 2000, GDP growth was only 1.7 per cent. The open unemployment rate fell (to 5.2 per cent in 2000, from 6 per cent in 1999), the best for the past five years, despite the fact that industrial employment fell, particularly in export processing and activities in free zones. In 2000, poverty rose to 21.1 per cent of households, according to the income and expenditure survey cited by ECLAC.

2. With regard to the follow-up of the recommendations of the Governing Body when it adopted the report of the committee set up to examine the representation made under article 24 of the Constitution of the ILO by the Latin American Central of Workers (CLAT) (document GB.266/8/1, June 1996), the Government states that the restrictive policies implemented during the period 1985-97 resulted in the percentage of employment in the public sector falling from 19.1 per cent (in 1985) to 14.2 per cent (in 1997) of the economically active population (14.1 per cent in 2000 according to data from the ILO Multidisciplinary Advisory Team for Central America). Among other measures, a Training and Rehabilitation Programme for Retrenched Workers was intended to train workers displaced from the public to the private sector. In this respect, the Confederation of Workers "Rerum Novarum", in observations transmitted to the Government in September 2000, refers to new policies for a reduction in the numbers employed in the public sector which have resulted in dismissals. In this connection, the Committee would be grateful if the Government would continue to address in its reports the impact on employment of the structural reforms which have been undertaken in the public sector and requests that it provide information on the labour market measures and programmes which have been adopted to match the supply and demand of labour so as to ensure that the categories of workers affected by structural changes remain in the labour market *(Article 1 of the Convention)*.

3. In the report received in March 1999, the Government refers to the National Plan to Combat Poverty (PNCP), which is intended principally for poor children and young persons, poor women and poor adults or persons with disabilities. Furthermore, the adoption of Act No. 7983 respecting workers' protection, of 16 February 2000, is intended, among other measures, to make pensions universal for all elderly persons in a situation of poverty and who are not covered by other pension schemes. The basic pension for persons in a situation of extreme poverty must not be lower than 50 per cent of the minimum old-age pension provided under the Invalidity, Old-Age and Survivors' Scheme of the Costa Rican Social Security Fund. The Committee requests that the Government provide an evaluation in its next report of the employment impact of the PNCP and of the progress achieved in establishing social security safety nets, as well as on any other active employment policy measure intended to combat poverty.

4. The Committee notes that, by means of Decree No. 27603-MTSS-MEIC, dated 4 September 1998, an integrated system has been established to support micro and small enterprises (SIAMYPE), based on the consideration that micro and small enterprises are a sector with great development potential, capable of increasing job creation through the promotion of entrepreneurship. The Committee notes that the Institute of Women has the function, in the Higher Council to Support Micro and Small Enterprises (CONSUMYPE), of ensuring the inclusion of a gender perspective in the policies of the

SIAMYPE and the promotion of women in the sector. The Committee trusts that the Government will provide information in its next report on the employment creation achieved by the programmes implemented by SIAMYPE, with reference, if it considers it useful, to the provisions of the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189).

5. *Article 3.* The Committee notes that, as a result of the process of dialogue on freedom of association and wage policy, by means of Directive No. 013-P, dated 7 November 1998, the President of the Republic requested the Minister of Labour and Social Security, among other measures, to pursue a policy to promote the creation of new and better sources of employment. In this respect, the Workers' Confederation "Rerum Novarum" indicates that its organizations were not consulted concerning employment policies. The Committee refers to its previous comments and once again recalls the importance of securing the full cooperation of the representatives of the persons affected in formulating employment policy and enlisting support for its implementation. The Committee once again requests the Government to provide information in future reports on the consultations actually held with representatives of employers' and workers' organizations (and with representatives of other sectors of the economically active population, such as those working in the rural sector and the informal sector) with regard to employment policy.

El Salvador (ratification: 1995)

1. The Committee notes the Government's detailed report for the period ending 31 May 2000. The New Alliance Government Plan, 1999-2000, maintains among its objectives the creation by the Government and private initiative of the conditions to promote the creation of employment opportunities. The Government adds in its report that the labour legislation in El Salvador is extremely rigid, which can lead to a major loss of efficiency. The need to reduce the adjustment costs of the labour force to respond to unforeseeable changes in economic conditions has given rise to a demand for greater flexibility, both with regard to termination costs and new forms of recruitment. In this respect, the Committee notes that the Ministry of Labour and Social Insurance has requested the Office's assistance (the Multidisciplinary Advisory Team for Central America) with a view to improving knowledge of employment problems in the country and making progress in the development of policies for the promotion of greater opportunities for decent work for women and men. The ILO's assistance should improve knowledge of the extent of employment and income problems and their relationship with the socio-economic conditions of households and should make it possible to develop policies and programmes for the promotion of greater employment opportunities and better conditions for the employability of the labour force. The Committee therefore trusts that the Government will continue to give priority in its plans and programmes to the objectives of full employment, taking duly into account the application and promotion of the principles and rights set out in international labour standards as necessities in a competitive economy. In this respect, the Committee would be grateful if the Government would provide information in its next report on the action taken as a consequence of the assistance provided by the ILO in relation to the employment policy to promote decent work *(Article 1 of the Convention).*

2. Recalling that in January and February 2001, two very strong earthquakes resulted in serious losses, the Committee would be grateful if the Government would provide information in its next report on the employment policy measures which have been adopted to address the labour needs of the persons affected and the reconstruction of infrastructure and housing, including the assistance received in this respect from the ILO.

The Committee is raising other matters concerning the application of the Convention in a direct request.

Finland (ratification: 1968)

The Committee notes the information contained in the Government's report for 1 June 1998 to 31 May 2000, as well as information supplied in response to previous comments.

1. *Article 1 of the Convention.* The Government states that GDP grew by 5.9 per cent in 1997, 4.7 per cent in 1998 and 3.5 per cent in 1999. Employment rose by about 2.25 per cent per year from 1995-99. The employment rate reached 66 per cent in 1999. Growth in employment was mainly in industry, business services and construction. Part-time employment as a percentage of total employment increased from 11.4 per cent in 1998 to 12.1 per cent in 1999. Unemployment decreased from 11.4 per cent in 1998 to 10.2 per cent in 1999, with 10.7 per cent for women and 9.8 per cent for men. Long-term unemployment decreased to 27 per cent of total unemployment in 1999.

2. Unemployment among older workers has decreased only slightly. The Government is concentrating its employment services (training and rehabilitation) on 55-59 year old jobseekers. It has changed the law to make employers responsible for paying unemployment pensions for older workers, as an incentive to retain them. The Government also has raised the lower limit to retire from 58 to 60, and removed measures that penalized older workers who accept low-paid temporary work. The Government has established the National Programme on Ageing Workers to boost employment of older people and conduct research on issues of discrimination against older workers and early retirement. The Committee notes this information with interest and requests further details on the outcome of these efforts to increase employment of older workers.

3. Other structural problems requiring more specific action include repeated unemployment, long-term unemployment and increasing labour and skills shortages in some professions. The Government mentions the following programmes: the Special Quality Strategy 1999-2001; the Workplace Development Programme to upgrade skills, improve organization and productivity of enterprises and improve the quality of life of workers; and the programme for conversion training which builds on early studies and work experience for professions with bottlenecks. Please provide further information on the impact of these programmes on employment promotion. The Government also briefly mentions the EQUAL programme for target groups. Please provide further information on which groups are targeted, the specific programmes involved and their impact on employment promotion for these groups.

4. *Article 2.* The Government states that a European Union peer review undertaken in 1999 determined that reform of the labour market had been successful and results

were mostly positive, but that too little attention has been paid to influencing the functioning of the labour market and labour demand. Consequently, Action Plan 2000 aims to ensure the efficient functioning of the labour market, enhance the availability of jobseekers and encourage older workers to continue working two to three more years. It sets the goal of raising the employment rate to 70 per cent. The Finnish Confederation of Salaried Employees (STTK) considers that the Government is not able to make proper use of experiences from projects implemented with support from the European Social Fund in drafting and implementing education and social policy or in anticipating the skills needs of business and industry. However, the Government states that the Ministry of Labour launched a project in 1999 to systematically assess the effectiveness of employment policy. The preliminary proposal establishes four key perspectives for assessments: effectiveness, process, customer, and staff. The assessment from the point of view of effectiveness was finished in 2000, and looked at employment effects, effects on functioning of the labour market, effects on equality of opportunity and effects in the workplace. Please continue to provide information on these assessments and any follow-up action taken.

5. *Article 3.* The Committee notes that the social partners and other representatives contributed to preparing the Action Plans for 1999 and 2000, and participated in monitoring implementation of the previous plans. Furthermore, the Central Organization of Finnish Trade Unions (SAK), STTK, the Confederation of Unions for Academic Professionals in Finland (AKAVA) and the Commission for Local Authority Employers (KT) are all satisfied with the improvements in tripartite cooperation in preparing and monitoring the Action Plan for Employment.

Lastly, the Committee notes the following comments supplied by the social partners:

- The SAK and the STTK consider that the active employment policy lacks sufficient funding for the number of unemployed jobseekers and the statutory duties imposed on the employment service. The heavy caseload of employment officers makes it impossible to direct sufficient active measures to the long-term unemployed and those in danger of exclusion who need personal services.
- The SAK also considers that the Government has moved back to more passive measures to address unemployment.
- The STTK adds that, in its view, self-motivated training is a failure for unemployed persons. The STTK criticizes the Government's tightening of conditions for part-time supplement at the same time as employment policy is stressing the importance of keeping older workers in employment longer. It welcomes the sectoral analysis of labour needs that the Government has started and would like to see the immediate launch of the sectoral employment and labour needs programmes.
- The STTK notes that unemployment for women is about the same as before and fixed-term contracts are still common in the public sector. The KT states that there is always a need for replacement staff in female-dominated sectors such as local government. Female employees are constantly offered fixed-term contracts but, on the positive side, work is always available.

- The AKAVA considers that employment policy is increasingly split between measures directed at those doing well in the labour market, to prevent bottlenecks, and those in danger of exclusion. The need to continuously upgrade the skills of the employed requires other sources of funding besides the Government.

The Committee would appreciate receiving further information on actions taken by the Government in the light of these comments.

France (ratification: 1971)

The Committee notes the information contained in the Government's report for June 1998 to June 2000, as well as information supplied in response to previous comments. It also notes the information set out in the very informative Action Plan 2000.

1. *Articles 1 and 2 of the Convention.* The Government states that its employment strategy is based on economic growth that is strong, produces lots of jobs, and enables everyone to benefit. Economic growth was strong during the reporting period, driven primarily by domestic demand. More than 380,000 new posts were created in 1999 and 460,000 in 2000. Total employment grew by about 2.1 per cent in 1999 and 2.2 per cent in 2000. Unemployment decreased from 11.6 per cent in 1998 to 9.8 per cent in May 2000. Between June 1998 and June 2000, youth unemployment decreased by about 26 per cent, unemployment for workers over 50 decreased by about 14 per cent, and the number of people unemployed for over a year decreased by about 23 per cent. There are 220,000 workers with disabilities employed in the private sector, 100,000 in sheltered workshops, and 134,200 unemployed. The Committee notes these positive trends and would appreciate continuing to receive detailed disaggregated information on labour market trends.

2. The Committee also notes that the law on negotiated reduction of working time of 13 June 1998, which instituted a legal limit on working time of 35 hours per week or 1,600 per year, came into force and was extended by the law of 19 January 2000. The Committee would appreciate receiving further information on the impact of these measures on promotion of employment.

3. A request regarding other points (personalized employment services, older workers, training throughout life of workers) is being addressed directly to the Government.

Guinea (ratification: 1966)

In reply to the comments that the Committee has been making for several years, the Government states in a brief report received in August 2000 that, once the process of implementing the national employment policy has been completed, it will report on the declaration and pursuit of an employment promotion policy. It also indicates that, following an ILO mission, a number of areas have been identified for concentration of policies. The ILO Office and the Multidisciplinary Advisory Team in Dakar indicate that a programme entitled "Component of the formulation of the national employment policy" (CFPN), a steering committee and a National Employment Promotion Agency (AGUIPE) have been established. Despite the difficulties of implementation, a framework document for employment policy has also been drawn up. In addition, the ILO has provided the Government with assistance for the establishment of an investment unit for labour-intensive projects (HIMO unit). The Labour and Employment Statistical Information Network (RISET) has undertaken a diagnostic study of the system of information on employment and training. Moreover, the Committee notes that in December 2000, the World Bank and the International Monetary Fund decided that Guinea could apply for a debt reduction plan under the Heavily Indebted Poor Countries (HIPC) Initiative. The resulting resources will have to be allocated to priority areas defined by the Government in a detailed strategic framework to combat poverty, which has to be established after broad consultation with civil society. The Committee therefore requests that the Government describe in its next report the action taken as a result of the assistance received from the ILO in relation to employment policy and to indicate any particular difficulties which have been encountered in achieving the established employment objectives, in the framework of a coordinated social policy and in consultation with the representatives of the persons affected, in accordance with *Articles 1, 2 and 3 of the Convention*. Please also provide copies of reports, studies or surveys, as well as detailed and disaggregated statistics such as to facilitate the evaluation of the situation, level and trends of employment, unemployment and underemployment. The Committee would appreciate receiving any other information on the extent to which the employment objectives established by the programmes implemented with the cooperation of the ILO and within the detailed strategic framework to combat poverty have been achieved.

Honduras (ratification: 1980)

1. The Committee notes the Government's full and detailed report for the period ending July 2000. The Government recalls the damage caused in October 1998 by Hurricane Mitch and refers to the implementation of the Master Plan for National Reconstruction and Transformation, the strategic objectives of which include economic recovery with employment creation. Economic growth, boosted by food exports and manufacturing activities, has resulted in an increase in GDP, a reduction in inflation and a recovery in employment levels (the open unemployment rate was 3.7 per cent in 1999). Export processing enterprises created over 6,000 new jobs (according to ECLAC). The Committee notes that a Poverty Reduction Strategy was adopted in the context of the Heavily Indebted Poor Countries (HIPC) Initiative. In July 2000, the World Bank and the International Monetary Fund agreed to support measures for the reduction of the financial debt, which include commitments concerning a participative strategy against corruption, social security reform, the strengthening of the financial sector, improvements in the quality of education, the provision of health-care services for the poor and the efficiency of social protection systems. In this respect, the Committee trusts that the Government will continue to give priority in its plans and programmes to the objectives of full employment, and that it will include information in its next report on the extent to which it has been possible to meet the employment objectives established in the Master Plan and the Poverty Reduction Strategy *(Articles 1 and 2 of the Convention)*.

2. The Government indicates in its report that the Honduran Social Investment Fund (FHIS) spurred temporary employment generation projects based on the construction of small economic and social infrastructure works. The Committee refers to its observation of 1998 and would be grateful if the Government would continue to provide information in its report on the results of the measures adopted by the FHIS in

terms of productive employment, particularly for the informal sector. Please also include information on the measures adopted by the National Vocational Training Institute (INFOP) to coordinate education and training policies with prospective employment opportunities.

3. *Article 3.* The Government states that the participation of civil society in relation to the employment policy occurs through the National Convergence Forum (FONAC), the strengthening of non-governmental organizations and the decentralization process, which seeks to support the role of local governments and communities. The Committee notes the above and would be grateful if the Government would provide examples in its next report of the manner in which representatives of employers' and workers' organizations (including representatives of those working in the rural sector and the informal sector) have been consulted concerning the employment policy measures adopted in the implementation of employment generation programmes, particularly in the context of the Master Plan and the Poverty Reduction Strategy.

Hungary (ratification: 1969)

1. The Committee recalls the discussion that took place at the Conference Committee in May-June 2000 and its request for further information on the effect of the Government's strategy to promote growth and increase employment opportunities and to ensure the coherence of employment policy in light of the dissolution of the Ministry of Labour. In particular, the Conference Committee asked the Government to ensure promotion of employment in conformity with provisions of the Convention, in particular the provisions of *Article 3* pertaining to consultations.

2. In this regard, the Committee notes the Government's report for the period July 1998-September 2000. It observes the detailed statements of the workers' and government representatives at the National ILO Council in its meeting of 2 October 2000 when the report was discussed. The workers' representatives drew attention to, inter alia, regional imbalances in employment promotion, most importantly the unemployment rate in eastern Hungary. They remained concerned that the Government, without previous consultation, had fragmented the administrative responsibilities in the field of employment between different ministries (Ministry of Economic Affairs, Ministry of Social and Family Affairs, Ministry of Education). The government representative indicated that the aim of the new institutional management of employment policy was its integration into economic policy. The Ministry of Economic Affairs is responsible for comprehensively shaping and elaborating the strategy of employment policy; the Ministry of Social and Family Affairs is responsible for equal opportunities, vocational rehabilitation and labour health and safety; and the Ministry of Education is in charge of vocational training and supervision of the regional centres for workforce development and training. The Committee would appreciate being kept informed of the coordination achieved between the different ministries concerned when deciding and reviewing the measures to be adopted for attaining the objectives of an active employment policy, in consultation with representatives of employers' and workers' organizations and other sectors concerned, as required by *Articles 1, 2 and 3*.

3. *Article 1.* The Government states that GDP grew by 4.9 per cent in 1998, 4.5 per cent in 1999, and 6.2 per cent in the first half of 2000. About 20 per cent of GDP is produced in the informal economy. Employment increased and unemployment

decreased. The participation rate rose from 57.8 per cent in 1997 to 59.9 per cent in 1999, with 49.4 per cent for women and 62.5 per cent for men. However, it still remains high due to availability of early retirement and young people staying in school longer. Employment increased from 52.7 per cent in 1997 to 55.7 per cent in 1999, mainly due to increased participation rather than decreased unemployment. Employment has increased among older workers (50-59) due to a decrease in early retirement. Employment grew in the service sector and declined in industry and agriculture. Growth in unemployment came from firms exposed to global economic pressures or inclined to substitute technology for labour. Long-term unemployment decreased to 3.2 per cent of total unemployment. But the average period of unemployment remained high, at just below 18 months, due to the generally low level of qualifications of the unemployed. Unemployment among youth (15-24) decreased from 14 per cent in 1997 to 12 per cent in 1999, due to activation measures. The relatively high rate of youth unemployment is due to the fact that many more young people are staying in school, and that a better measure is the ratio of unemployed to total youth population.

4. The Government has changed its goal from decreasing unemployment to increasing employment. The Government emphasizes intensive job search in its labour market policy. It provides jobseekers with job search assistance including job search training, transportation costs, and allowances during the job search training. Unemployment benefits are more closely linked to job search efforts or participation in training. The duration of benefit has decreased from 360 days to 270, but with the possibility to extend the limit if the person is participating in a training programme. Social assistance for the unemployed has been eliminated, and replaced by a guarantee of 30 days of employment with the local government authority.

5. The Government states that there is no data on employment trends for Roma because legislation prohibits filing the details of the ethnic background of jobseekers. However, it estimates that the employment rate for Roma is one-half that of non-Roma and the unemployment rate is three to five times higher. The Government states that these poor comparisons are due to the fact that the Roma tend to live in economically depressed areas, but prejudice in hiring also is a factor. The Government is devising a long-term strategy for labour market integration. The objective is to develop agriculture, local economies, and social, health and housing programmes, as well as launching an anti-discrimination campaign. Please continue to provide information on progress made in promoting employment for the Roma communities.

6. *Article 2.* Further to discussions of the Conference Committee in 2000, the Committee requests information on the procedures adopted to ensure that the principal measures of employment policy are decided on and kept under periodical review within the framework of a coordinated economic and social policy.

7. *Article 3.* The Committee notes the statement of the workers' spokesperson made at the tripartite National ILO Council. The workers' spokesperson draws attention to, inter alia, regional imbalances in employment promotion, most importantly the unemployment rate in eastern Hungary, which is four to five times higher than in the western region. Please continue to supply information on measures taken to ensure more balanced regional employment growth.

Iraq (ratification: 1970)

In its previous comments the Committee asked the Government to provide information which will enable it to ascertain to what extent an active policy of promoting full, productive and freely chosen employment is formulated and applied in the framework of a coordinated economic and social policy and in consultation with all the persons affected, in accordance with *Articles 1, 2 and 3 of the Convention*. The Committee notes the Government's brief statement contained in the report received in October 2000. The Committee expresses the hope that the Government will not fail to submit a detailed report that responds to all of the points raised in the *report form* adopted by the Governing Body.

Japan (ratification: 1986)

The Committee notes the detailed information contained in the Government's report for 31 May 1998 to 31 May 2000 in reply to the previous direct request and the attached copy of the Ninth Basic Employment Measures Plan.

1. *Articles 1 and 2 of the Convention*. The Committee notes the Government's statement that the unemployment rate continued to climb from 4.1 per cent in 1998 to 4.7 per cent in June 2000. More recent information indicates that the unemployment rate reached an unprecedented 5.3 per cent in September 2001 and the Minister of Labour declared a state of emergency. Furthermore, the Bank of Japan expects the current deep recession to continue until at least March 2003.

2. The Committee notes the information provided on particular groups of jobseekers, including the following:

- Unemployment has increased most for young people (15-24), from 7.7 per cent in 1998 to 9.2 per cent in June 2000. The Government states that this is due in part to the greater interest of young people in job mobility. Measures to boost employment of youth include increased education and training, increased job search assistance, and instilling a job consciousness to diminish the frequency of resignations.
- By 2010 it is estimated that one-third of workers will be over 55. Employment of older workers is becoming a pressing issue for the Government. About 80 per cent of all enterprises still make retirement compulsory at 60. The Government wants to do more to encourage firms to allow people to continue to work until 65.
- For people with disabilities, the main employment promotion measures are training and quotas for hiring. Approximately 45 per cent of firms have filled their quota.
- Amongst the employed, standard employment is declining, and temporary and daily employment is growing. The Government states that this change in the quality of work is causing increased tensions between management and unions, and the Government has had to establish a system for dispute resolution. However, self-employment is decreasing and the number of employees is increasing.

The Government also states that it aims to increase the size of the labour force by encouraging the use of flexible forms of work, such as part-time work and telecommuting. Please continue to supply information on the impact of these and other measures set out in the Ninth Basic Employment Measures Plan 1999 on employment promotion. Please also continue to provide information on trends in quality of employment.

3. Further to previous comments, and to comments made under the Equal Remuneration Convention, 1951 (No. 100), the Government states that the participation rate of women of all ages is increasing. An increasing number of mothers are choosing not to stop working for a period, although many opt for part-time work. Increasing employment of women is a priority, not just out of concern for gender equality, but also because the labour force is shrinking at a rapid rate. The Government has abolished restrictions on overtime, night work, etc., for women, and has improved job security for women on maternity leave. The Government has also taken proactive measures to accommodate workers with family responsibilities such as increasing allowances for time off and improving job security for workers who take time off for family reasons. Other measures include education and training, education on positive action employers can take to promote employment of women, and a system for quick resolution of disputes. The Government has set up a special bureau to promote employment of women. Please continue to supply information on progress made in ensuring equality of treatment for all categories of workers mentioned in *Article 1, paragraph 2(c)*, of the Convention.

4. The Committee notes with interest that the Government is extending its training programme to include a broader range of participants. The Government considers that foreign workers will become increasingly important to the economy as the labour force ages. It intends to regulate better the influx of foreigners, and to provide them training to ensure that their skills are appropriate for the demands of the labour market. It is also providing training and support services to day workers and the homeless to help integrate them into the formal economy. The Committee would appreciate continuing to receive information on the impact of these training programmes on employment promotion.

5. The Committee also notes with interest that a key component of the employment strategy set out in the Ninth Basic Employment Measures Plan 1999 is improving placement services. Japan has ratified the Private Employment Agencies Convention, 1997 (No. 181), and the Government has sent a detailed first report, which the Committee will evaluate in the near future. The Government is expanding the range of jobs available through the placement services, setting up a website for jobseekers, and addressing issues such as management of personal data and reducing the average time period for referrals. It is also boosting training because it anticipates that mismatch will increase, due to changes in technology, globalization and competition, and a decreasing supply of new graduates.

6. The Committee notes the interesting discussion in the Government's report on evaluating enterprises. The Government suggests that actions of firms, such as sizeable lay-offs, should be evaluated not just by investors but also by society as a whole. The Committee would appreciate receiving further information on any specific measures implemented in line with this general proposal, as it affects the objectives of full employment set out in the Convention.

7. *Article 3.* Please continue to supply information on the manner in which representatives of workers, employers and other groups affected by employment

policies, such as rural and informal sector workers, are consulted on the formulation, implementation and evaluation of employment policies and programmes.

Republic of Korea (ratification: 1992)

Further to comments in paragraph 152 of its General Report (71st Session, November-December 2000), the Committee notes with interest the various measures implemented by the Government to improve safety nets. The Government has expanded eligibility for benefit, prolonged the duration of benefit by 60 to 90 days, and extended the scope of coverage to include enterprises with as few as five workers, and temporary and part-time workers. Other safety net measures include extending medical insurance and providing loans and grants to the long-term unemployed.

In a direct request, the Committee raises other issues concerning employment promotion measures, the participation of women and older workers in the labour market, placement services and consultation with representatives of all groups affected by employment policies and programmes.

Libyan Arab Jamahiriya (ratification: 1971)

The Government states in its very brief report for the Convention that it has not yet adopted an employment policy, but it intends to send information to the Office when it becomes available. The Committee emphasizes the fundamental importance of adopting an employment policy and programmes within the framework of a coordinated economic and social policy and in consultation with representatives of workers, employers and other groups affected, such as rural and informal sector workers. It urges the Government to adopt an employment policy and implement appropriate programmes as soon as possible and requests a detailed report on all of the points raised in the *report form* for the Convention.

Mauritania (ratification: 1971)

The Committee notes with interest that in reply to the comments it has been making for several years, the Government states in the brief report received in March 2001 that, with assistance from the UNDP and the ILO, it has succeeded in setting up an employment information system (SIME). Furthermore, the system, which is already operational, will provide the means for an employment promotion agency in the future. The Government also indicates that all the different views in civil society were taken into account in drafting the employment policy. The Government has also sent statistics showing that, in 1999, the activity rate stood at 46.71 per cent of the active population and the unemployment rate, at 20.90 per cent. According to a document appended to the report, with the emergence of the SIME, it has become possible to identify needs in terms of decentralization and regional balance and the degree of priority to be accorded to the advancement of women, the aims of sustainable human development and progress in good governance. The areas where progress is needed include: evaluation and analysis of underemployment, information on the informal sector, job supply and undeclared employment in the modern sector. The Committee also notes that in February 2000 the World Bank and the International Monetary Fund found that Mauritania was in a position to apply for a debt reduction plan under the Heavily Indebted Poor Country

(HIPC) Initiative. The resources provided will go to the priority areas identified by the Government in its detailed poverty reduction strategy which is to be drafted after broad consultations with civil society. The Committee therefore requests that the Government indicate in its next report the action undertaken with assistance from the ILO in respect of employment policy and to state whether any particular difficulties have been encountered in achieving the employment objectives established, as part of a coordinated economic and social policy in consultation with representatives of those concerned, in accordance with *Articles 1, 2 and 3 of the Convention*. Please also provide copies of reports, studies or surveys, together with detailed disaggregated statistics so as to facilitate an evaluation of the situation, level and tendencies, and all other information showing the extent to which the employment objectives defined by the programmes implemented in cooperation with the ILO and as part of the detailed poverty reduction strategy have been attained.

Morocco (ratification: 1979)

The Committee notes the information provided in the Government's report and the Tripartite Agreement of 23 April 2000 concerning, inter alia, resolving the crisis of employment and unemployment.

1. *Article 1 of the Convention*. The Government states that the activity rate decreased from 55.7 per cent in 1999 to 54 per cent in 2000, and that those worst affected were women, young people, and unskilled workers. Rural areas were worst affected, due to drought and growth of urban employment. Growth in employment was mainly in self-employment and unpaid work. The unemployment rate for the population decreased slightly from 13.8 per cent to 13.5 per cent. The main beneficiaries were women, adults between 35-44 years of age, and skilled workers. In urban areas, salaried employment decreased by 3.3 per cent, while self-employment increased by 26.6 per cent. Most job growth was in precarious work in the informal sector. The rate of unemployment dropped from 21.9 per cent to 21.4 per cent, with women being the main beneficiaries. For skilled workers, the unemployment rate dropped from 28.2 per cent to 25.9 per cent. In rural areas, growth in employment was in temporary family units of production, resulting in a 17.5 per cent increase in unpaid work. The rate of employment of people over 15 years of age in rural areas increased from 56.6 per cent to 59.3 per cent. The unemployment rate dropped from 5.6 per cent to 5.1 per cent.

2. The Government has established a 5th Plan of Development for Employment Promotion 2000-04. The principal measures are training and placement of young workers so that they may acquire supplementary practical experience to help them secure a job, and encouraging initiatives by young people to create enterprises. To help promote growth of businesses, the Government provides tax holidays for investors; has established a fund to promote investment and the National Agency for Promotion of Investments; has adopted laws concerning promotion of investment; and aims to improve the regulatory climate to encourage entrepreneurs. In addition, the Government aims to decrease public spending and reduce public debt, to encourage development of the private sector. The Committee notes this information. It would appreciate continuing to receive information on the impact of these measures on employment promotion.

3. *Article 3, in conjunction with Article 2*. In reply to the observations of 1999, the Government states that its general economic policy is developed and reviewed in

consultation with the social partners. Furthermore, workers are represented in the Chamber of Counsellors, which forms part of Parliament. Employers and workers are also represented in the Superior Council for national planning and promotion, and in the National Agency for Employment Promotion and Competencies. The Committee notes this information. It would appreciate receiving further information on the manner in which other groups affected, such as rural and informal sector workers, are taken into account in the development, implementation and review of employment policies and programmes. Please also supply further information on how employment policies and programmes are kept under review within the framework of a coordinated economic and social policy.

4. The Committee also notes the conclusions of the Tripartite Agreement of 23 April 2000 on resolving the crisis of employment and unemployment. The Agreement draws attention to the Government's efforts to create 17,435 jobs in the last six months of 2000. It also highlights the need to support and provide the necessary follow-up for programmes on self-employment and small and medium enterprises, and to reinforce training for integration and rehabilitation of workers. Lastly, it identifies the need to prepare for the participation of the social partners in taking complementary measures to revive employment. The Committee notes this Agreement with interest and would appreciate further information on any follow-up measures taken.

Nicaragua (ratification: 1981)

1. The Committee notes the Government's report, received in November 2000, in which reference is made to the legal framework in which the Ministry of Labour operates, the measures taken regarding micro, small and medium-sized enterprises, investment promotion and other measures related to vocational training. The Committee notes that the unemployment rate fell in 2000 (from 10.7 to 9.8 per cent) though the underemployment rate (12.1 per cent) increased considerably. Most of the jobs created were in the agricultural, construction, commerce and social service sectors. In December 2000, the World Bank and the International Monetary Fund decided to support a comprehensive debt reduction package for Nicaragua as part of the Heavily Indebted Poor Countries (HIPC) Initiative. As part of the package, the Government is to finalize and implement a wholly participatory poverty reduction strategy including measures to promote human development and social protection and expand access to primary education and health care. The Committee trusts that the Government will continue to give priority to the objectives of full employment in its plans and programmes and will include in its next report information on the extent to which the employment objectives set in the poverty reduction strategy have been attained *(Articles 1 and 2 of the Convention)*.

2. The Committee reiterates, as it has done for many years, its request to the Government to include in its next report the information required in the *report form* on consultation of the representatives of the persons affected concerning the various aspects of employment policy, and particularly on any consultations held with representatives of those working in the rural sector and the informal sector *(Article 3)*.

The Committee raises other aspects of the application of the Convention in a request addressed directly to the Government.

Portugal (ratification: 1981)

The Committee notes the discussion of the Conference Committee, which took place during the 89th Session of the Conference (June 2001). It also notes the information contained in the Government's report, received in October 2001, which included comments supplied by the General Confederation of Portuguese Workers (CGTP-IN) and the General Workers' Union (UGT). The Committee will examine the Government's report and the comments of the organizations during its upcoming session, and welcomes any additional information that the Government may wish to provide.

Sweden (ratification: 1965)

The Committee notes the information contained in the Government's detailed report for the period 1 July 1998 to 30 June 2000, as well as *Sweden's Action Plan for Employment 2000 and 2001*, forwarded by the Government in June 2001.

1. *Articles 1 and 2 of the Convention.* The Government states that in 2000 there was a substantial rise in the employment ratio to 77.2 per cent, with young workers and urban jobseekers being the main beneficiaries of the increase. Average open unemployment reached 4.7 per cent (down from 5.6 per cent in 1999), but grew for foreign-born citizens, to as much as 16 per cent for those residing in Sweden for less than five years, as compared to about 4 per cent for people born in Sweden. Youth unemployment decreased to 7.4 per cent. Unemployment was 4.3 per cent for women, and 5 per cent for men; however, the Government states that there was a considerable amount of underemployment among women workers. The Government has set the goal of halving open unemployment between 1997-2000, from 8 per cent to 4 per cent. It hit this target briefly at the end of 2000, but was not yet able to sustain this level. The Government also aims to increase employment to 80 per cent for workers aged 20 to 64 by 2004. The Committee notes this information with interest, and would appreciate being kept informed of progress made in achieving these goals.

2. The Committee notes the Government's statement that there is a significant regional imbalance in growth in employment. The Government's main measures for dealing with this imbalance are to provide relocation grants to jobseekers and to subsidize transportation costs. The Committee requests further information on the impact of these measures, and on other policies adopted to promote more balanced regional economic growth and development.

3. The Committee notes with interest that the Government has been very active in attempting to overcome sex segregation in the labour market, and has established "pattern breaker projects" to broaden the employment choices of each sex. An evaluation of the pattern breaker projects was due in August 2001. The Committee would appreciate receiving further information on the outcome of this evaluation.

4. The Government states that it targets special groups in its labour market measures. These groups include non-Nordic citizens, people with disabilities, and young persons (aged 18-24). The Government has set a goal of ensuring that the share of spending on active labour market programmes allocated to these groups matches or exceeds their proportion of unemployment. Special programmes for these groups include computer training, employability measures, tax credits for hiring and training a long-

term unemployed person, work experience, and grants for viable entrepreneurial proposals. Please continue to supply information on the impact of these special programmes on employment promotion for the target groups.

5. For older workers, the Government has a system of public temporary employment. However, it has eliminated early retirement as an employment promotion strategy. The Swedish Confederation of Trade Unions (LO) notes that early retirement is mentioned in the Annex to the Employment Policy Recommendation, 1964 (No. 122), as a possible means of reducing unemployment (Paragraph 6(3)), but that pension benefits are designed to encourage late retirement in Sweden. The Committee would appreciate continuing to receive information on progress made in promoting employment for older workers. The Committee also draws attention to the provisions of the Older Workers Recommendation, 1980 (No. 162), Part IV of which addresses preparation for and access to retirement.

Article 3. In reply to previous comments, the Government states that consultations take place at all levels (national, regional, and local/municipal), through bodies such as the labour market committees and the regional skills councils. The social partners provide the text of guidelines addressed to them, which are contained in the Action Plan for Employment.

Turkey (ratification: 1977)

The Committee notes the information provided in the Government's report for the period 1 June 1998 to 30 May 2000, as well as the comments provided by the Confederation of Turkish Trade Unions (TÜRK-IŞ) and the Turkish Confederation of Employers' Associations (TISK).

Article 3 of the Convention. The Government states that consultations with employers' and workers' representatives take place through the Central Consultation Committee and consultation committees established in 12 villages. The social partners actively participate in the planning and organization of vocational guidance and training courses. The Economic and Social Council also is tripartite and discusses broader issues related to employment. It met once during the reporting period to discuss a macroeconomic programme. TÜRK-IŞ believes that the consultation machinery is not being used, and TISK advocates giving the Economic and Social Council a legal status and making it responsible for developing national employment policy. The Committee notes this information and would be grateful if the Government would provide further details on the manner in which representatives of workers and employers are consulted concerning employment policies and programmes, and whether any formal consultative procedures have been established. The Committee also requests information on the outcome of these consultations and on how the views expressed were taken into account in the formulation, implementation and evaluation of employment policies and programmes. Lastly, please provide information on the manner in which other groups affected, such as rural and informal sector workers, are consulted.

Article 1. TISK states that unemployment is one of the most critical problems in the country. It also draws attention to the high rate of underemployment, at 6.9 per cent, in addition to the problem of unemployment. The TISK considers that measures are needed to support production, investment and entrepreneurship. It expresses particular concern about the need to ensure that legislation, wage policies and collective bargaining are all sensitive to the need to promote employment. It questions the value of compulsory employment obligations, which harm productivity. Lastly, it supports the establishment of private placement agencies.

In the opinion of TÜRK-İŞ, the Government's employment policy exacerbates unemployment, public investment does not create jobs, and no employment promotion criteria are applied in supporting the private sector. It also considers that many older workers are forced to retire at an early age and no measures are being taken to deal with widespread dismissals in the private sector.

The Government recognizes that unemployment increased from 6.7 per cent in 1998 to 7.3 per cent in 1999. The participation rate went down, from 72 per cent for men and 28 per cent for women in October 1998, to 70 per cent for men and 27 per cent for women in October 1999. Unemployment among youth has not changed. It is highest in the cities for men (at 25 per cent compared with 19 in rural areas), highest in rural areas for women (at 38 per cent compared with 33 per cent in cities). The difficulties in promoting employment were due in part to the earthquake on 17 August 1999 at the highly industrialized Marmara Region. To encourage investment, the Government is granting tax holidays for setting up an enterprise in cities considered in urgent need of development; and the National Employment Agency has channelled about 10 million dollars into training with employment guarantees and to developing enterprises in the regions affected. In general, unemployment is higher in urban areas (10.4 per cent) than in rural areas (2.9 per cent). The Government states that its biggest problem is urban migration with insufficient employment openings to absorb the jobseekers. Underemployment increased from 5.9 per cent in 1998 to 10.2 per cent in 1999, and was as prevalent in rural areas as in cities. The new unemployment insurance system has resulted in an increase in the number registering with the employment placement services as a condition for receiving benefit.

The Committee notes this information. It would appreciate receiving further information on progress made in promoting employment, particularly in light of the comments made by TISK and TÜRK-İŞ. The Committee has also raised other points concerning employment promotion programmes, education and training, and a new methodology for collecting labour market data in a request addressed directly to the Government.

Uganda (ratification: 1967)

The Committee notes the information contained in the Government's report, which was received in November 2000.

1. *Article 1 of the Convention.* The Committee notes with interest that the draft Employment Policy has been submitted to the Presidential Economics Council. The Government states that the centrepiece of every policy is the Poverty Eradication Action Plan (PEAP), and that some programmes already have been implemented. Two of the central programmes include providing microcredit. The youth entrepreneurs scheme targets young university graduates. To date it has trained 1,200 participants in entrepreneurship and provided loans to 795. The Entandikwa credit scheme targets the poor, and has so far supported 180 rural microcredit institutions and increased access to credit of marginalized people, in particular, women, youth and persons with disabilities. The Committee notes these schemes with interest. It would appreciate receiving further

information on the impact of microcredit on employment promotion, and requests further details on other employment promotion programmes implemented.

2. The Committee also notes with interest that the Government has established, with ILO assistance, a special unit within the Ministry of Finance and Planning, to oversee implementation of labour-intensive and labour-based programmes. A large programme on implementation has been completed and the ILO is assisting in the impact evaluation. The Government also has drawn up a plan for modernization of agriculture, which is expected to generate employment, including the agro-processing industries. It has undertaken a project on poverty reduction through skills and enterprise development, with funding from the United Nations Development Programme (UNDP) and assistance from the Office. The UNDP is funding US$12 million. Furthermore, Uganda is part of the Jobs for Africa Poverty Reduction Strategy in Africa of the ILO, and has completed a study on investment for poverty reduction employment and prepared a draft country action programme which outlines a number of projects and programmes.

3. *Article 2.* The Committee notes that the economy has been growing by an average of more than 6 per cent per year, and the Government has been effective in applying debt relief to reducing poverty, from 55 per cent of the population in 1992 to 35 per cent in 2000. It would appreciate further information on how the objective of employment promotion is taken into account in the Poverty Reduction Strategy Paper prepared by the Government as a condition for debt relief within the Heavily Indebted Poor Countries (HIPC) Initiative of the World Bank and the IMF. The Committee also notes that implementation issues concerning the employment policy are now under consideration. It requests further information on how the employment policy and implementing programmes will be kept under review. Please also provide information on the measures taken to collect and analyse statistical data concerning trends in the size and distribution of the labour force, and the nature and extent of unemployment and underemployment, to facilitate its evaluations.

4. *Article 3.* The Committee notes with interest that the draft employment policy was developed with extensive input from representatives of employers and workers and of other interested groups such as rural and informal sector workers. It would appreciate continuing to receive information on the nature of consultations on employment promotion, including consultations on evaluations and revisions, and on how these views are taken into account, as required by the Convention.

Venezuela (ratification: 1982)

1. In reply to its 1999 observation, the Government has provided a brief report for the period ending August 2000, in which it only indicates that a Presidential Commission for the Promotion of the Mass Employment Plan has recently been created and entrusted with evaluating the existing situation, submitting relevant recommendations and following up the measures adopted with a view to the provision of guidance. The Committee notes that the high levels reached by the price of oil led to an important rise in the gross national income and an acceleration of economic activity. However, the unemployment rate, which has doubled since the beginning of the 1990s, remains at high levels (11.3 per cent in 1998; 14.9 per cent in 1999; 14.6 per cent in 2000), informal employment has continued at above 53 per cent of the economically active population and the agricultural sector has also lost jobs. The Committee would therefore be grateful

if the Government would provide information in its next report on the situation, level and trends of employment, unemployment and underemployment in Venezuela, disaggregated by their effect on women and young persons. Please also include information in the next report on the impact on employment of the structural reforms which have been undertaken, as well as information on the labour market measures and programmes carried out to match labour supply and demand so as to ensure that the categories of workers affected by structural transformations and changes in international trade are able to enter and remain in the labour market *(Article 1 of the Convention).*

2. The Committee refers once again to the representation made under article 24 of the Constitution of the ILO by the Latin American Central of Workers (CLAT) and the Latin American Federation of Trade Workers (FELTRALCOS) (document GB.273/14/5, adopted in November 1998), indicating that it would be in conformity with the measures required by the Convention for the Government to take advantage of the effort made by the workers in the informal sector to organize themselves with a view to seeking, through dialogue, in the spirit of *Article 3* of the Convention, solutions to the employment problems arising from the existence of a very substantial informal sector. The Committee urges the Government to include full and detailed information in its next report on the employment policy measures adopted in relation to the informal sector.

3. The Committee trusts that in 2002 the Government will provide a detailed report on the application of the Convention containing all the information requested in the *report form* for each of the provisions of the Convention, including information on the activities of the Presidential Commission for the Promotion of the Mass Employment Plan and the manner in which its activities have taken into account the provisions of *Articles 1, 2 and 3* of the Convention and, in general, the need to promote decent work.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Australia, Austria, Azerbaijan, Barbados, Belarus, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Canada, Chile, Comoros, Croatia, Cuba, Denmark, Djibouti, El Salvador, France, Germany, Greece, Iceland, Islamic Republic of Iran, Ireland, Israel, Jamaica, Republic of Korea, Kyrgyzstan, Lebanon, Madagascar, Mongolia, Mozambique, Netherlands, New Zealand, Nicaragua, Norway, Panama, Papua New Guinea, Peru, Philippines, Poland, Romania, Russian Federation, Senegal, Slovakia, Spain, Sudan, Suriname, Tajikistan, Tunisia, Turkey, Ukraine, United Kingdom, Uruguay, Yemen.*

Convention No. 123: Minimum Age (Underground Work), 1965

Nigeria (ratification: 1974)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous observation:

> Referring to comments made for a number of years, the Committee had requested the Government to indicate measures taken to give effect to the Convention, under which the employer shall make available to the workers' representatives, at their request, lists of the persons who are employed on work underground and who are less than two years older than the minimum age specified by the Government (i.e. persons under 18 years in Nigeria). The

> lists should contain the dates of birth of such persons and the dates at which they were employed or worked underground in the undertaking for the first time.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Bolivia, Ecuador, Mongolia, Paraguay, Slovakia, Swaziland, Uganda.*

Information supplied by *Mexico* and *Saudi Arabia* in answer to a direct request has been noted by the Committee.

Convention No. 124: Medical Examination of Young Persons (Underground Work), 1965

Tunisia (ratification: 1967)

The Committee notes with interest the detailed information supplied by the Government in its last report. With reference to its comments outstanding, the Committee notes with satisfaction the amendments to the Labour Code, particularly to sections 59, 61, 62 and 63, which ensure that full effect is given to *Articles 2, paragraph 1; 3, paragraph 2; 4, paragraphs 4(b) and 5; and 5, of the Convention.*

The Committee asks the Government to continue to supply information on the practical effect given to the Convention, in accordance with *Part V of the report form.*

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Azerbaijan, Bolivia, Czech Republic, Ecuador, Gabon, Kyrgyzstan, Tajikistan, United Kingdom, Viet Nam.*

Convention No. 125: Fishermen's Competency Certificates, 1966

Sierra Leone (ratification: 1967)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In earlier comments the Committee had noted that there existed no laws or regulations to give effect to the Convention. In its latest report (1995) the Government indicated that it had formulated new regulations for the fishing industry which would incorporate the Committee's comments. The Committee hopes that the Government will provide information on the measures adopted to apply the provisions of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Trinidad and Tobago (ratification: 1972)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> Further to its earlier comments, the Committee notes again that no legislation has yet been adopted to give full effect to *Parts II, III and IV of the Convention*. The Committee hopes that the Government will soon be in a position to indicate the measures taken to ensure that national legislation and practice are consistent with its commitments made by ratifying the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Panama, Senegal.*

Convention No. 126: Accommodation of Crews (Fishermen), 1966

A request regarding certain points is being addressed directly to *Sierra Leone.*

Convention No. 127: Maximum Weight, 1967

Algeria (ratification: 1969)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. *Articles 3 and 7, paragraphs 1 and 2, of the Convention.* Further to its previous comments noting the absence of legislation limiting the weight of loads to be manually transported by adult males, the Committee notes with satisfaction that article 26 of Executive Decree No. 91-05 of 19 January 1991, concerning the general protective provisions applying in the field of safety and health in the work environment, sets the maximum weight of loads to be manually transported by adult males at 50 kg, and the maximum weight of loads to be transported manually by women and young workers at 25 kg.
>
> In this connection, the Committee would, however, refer the Government to the ILO publication "Maximum weights in load lifting and carrying" (Occupational Safety and Health Series, No. 59, Geneva, 1988), in which it is indicated that 15 kg is the limit, recommended from an ergonomic point of view, of the admissible load for occasional lifting and carrying for a woman aged between 19 and 45 years. The Committee hopes that the Government will keep the matter under review so as to further limit the assignment of women workers to the manual transport of light loads, not exceeding, as much as possible, 15 kg, and that it will indicate the measures taken or envisaged to this end.
>
> 2. *Article 6.* The Committee notes that modernization is taking place in the country and that the mechanization of operations has improved conditions of work and reduced the fatigue and risks encountered by workers. The Committee hopes that the Government will supply more detailed information on the technical devices used that limit and facilitate the manual transport of loads.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Hungary (ratification: 1994)

The Committee notes with interest the information contained in the Government's reply to its previous comments. It notes the adoption of Decree No. 25/1998 (XII.27.) EUM, issued by the Minister of Health concerning the minimum health and safety requirements of manual movement of weight as a source of hazard primarily of back injury, which came into force in February 1999. It requests the Government to supply a copy of Ministerial Decree No. 25/1998 (XII.27.) EUM to the ILO.

The Committee is addressing a request for additional information directly to the Government.

Italy (ratification: 1971)

The Committee notes the information supplied by the Government in its report.

The Committee also notes with satisfaction that section 7, paragraph 1, first sentence of Decree No. 151 of 26 March 2001 representing the consolidated text of legislative provisions on protection and support for maternity and paternity under article 15 of Law No. 53 of 8 March 2000, provides for a general prohibition to assign women to the transport of loads, either manually, on their back or with wheeled carts on roadways or rails, as well as the lifting of weights, including loading and unloading and any other related operations. This amendment applies *Article 7 of the Convention.*

With reference to its previous comments, the Committee would draw the Government's attention to the following point.

Article 3. The Committee notes that item 1 of Annex VI of Decree No. 626/94 specifies individual risk factors with regard to the manual transport of loads which may cause dorsal-lumbar injuries to workers. It notes that among the risk factors enumerated, a load that is too heavy, that is a load as of 30 kilograms, is considered to cause back injury to workers. In this case, the employer is obliged to take the protective measures prescribed under sections 48 and 49 of Decree No. 626/94 to eliminate or reduce the risk. The Committee notes from the Government's indication that 30 kilograms is not legally established as the maximum weight to be transported manually by a single worker, but constitutes a point of reference for taking further preventive measures. In this regard, the Committee recalls that, in conformity with *Article 3* of the Convention, read together with Paragraph 14 of its accompanying Recommendation, 1967 (No. 128), the maximum permissible weight that may be transported manually by one adult male worker should under no circumstances exceed 55 kilograms. The Committee therefore requests the Government to indicate the measures taken or envisaged to ensure that the maximum permissible weight to be carried by one worker is legally specified, in conformity with this Article of the Convention.

Tunisia (ratification: 1970)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 3 of the Convention.* The Committee notes the information provided by the Government in reply to its previous comments to the effect that the results of the work of the commission responsible for reviewing the Order of 5 May 1988, determining the maximum permissible weight to be carried by a single worker, will be transmitted to the Office once it

has finished its work. The Committee hopes that the above commission will be able to conclude its work in the near future and that the Government will provide detailed information on its activities and on the manner in which the most representative organizations of employers and workers have been consulted on this matter, as well as on the measures which have been taken or are envisaged to lower the maximum admissible weight of loads which may be carried by a single worker, which is currently set at 100 kg, a weight which considerably exceeds the recommended maximum of 55 kg.

The Committee is raising certain points in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Hungary, Tunisia.*

Convention No. 128: Invalidity, Old-Age and Survivors' Benefits, 1967

Bolivia (ratification: 1977)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee has studied the provisions of Act No. 1732 of 29 November 1996 concerning pensions and its regulation (Supreme Decree No. 24469 of 1997) which replaces the old pension system based on share-out and administered by the Bolivian Institute of Social Security, a public body, with a completely new system based on individual capitalization of the insured person's assets and managed by private bodies ("Administradoras de Pensiones" (AFP)). The Committee has also noted the information supplied by the Government in its report along with the comments made by the Bolivian Central of Workers (COB).
>
> In view of the fundamental changes introduced by the new legislation, the Committee emphasized in its previous comments that the Government should report in detail allowing it to assess whether the new pension system continued to ensure application of the Convention. In this regard, the Committee notes with regret that, first, the Government's report is limited to a brief description of the major provisions of the Act and that, secondly, the reply it contains to the new comments made by the Bolivian Central of Workers concerning the sale of the property belonging to the old supplementary schemes consists solely of a reference to the provisions of the Act and the responsibility of the Ministry of Finance ("Ministerio de Hacienda"). In these circumstances, the Committee is bound to reiterate the hope that the Government will not fail to supply a detailed report on the implementation of the reform in the light of each Article of the Convention, containing all the statistical information required by the report form. The Committee also wishes to draw the Government's attention to the following specific points:
>
> 1. *Scope.* The new system covers compulsorily persons who are in a dependent employment relationship while others may be affiliated on a voluntarily basis (sections 5 and 24 of Act No. 1732 and section 109 of the Decree). In order to ascertain better in practice the extent of cover of the new pensions regime in relation to the provisions of *Articles 9, 16 and 22 of the Convention*, the Committee would appreciate the Government

providing with its next report all the statistical information required by the report form under these Articles of the Convention.

2. *Level of benefits.* (a) *Invalidity and survivors' benefits (sections 10 and 23 in relation to Article 26 of the Convention).* According to sections 8 and 9 of the Act and section 41(c) of the Decree, the invalidity and survivors' benefits (paid to a widow with two children) may not be less then 70 per cent of the insured person's basic salary. Given that a maximum is prescribed for the basic salary serving for calculation of the abovementioned benefits (60 times the minimum national wage in force, according to section 5 of the Act), the Committee trusts that the Government will not fail to supply all the statistical information required by the report form under *Article 26* of the Convention (Titles I, II and IV).

(b) *Old-age benefits (Article 17 in relation to Article 26).* The Committee notes that, according to section 7 of the Act, the amount of the pension depends on the capital accumulated in the worker's individual account. In addition, pursuant to section 17 of the Act and sections 18 and 19 of the Decree, the pension may take two different forms according to the type of contract selected. If the affiliated person chooses a life annuity contract, the amount of the pension will be fixed and will correspond to at least 70 per cent of the minimum wage in force; if the affiliated person chooses a variable monthly annuity contract, the amount of the first pension payment will also correspond to at least 70 per cent of the minimum wage in force; subsequently, the amount of the pension will vary as a function of the mortality of the group of pensioners who have selected this pension system as well as the return on the variable monthly annuity account. In order to ascertain whether the amount of the old-age pension paid by virtue of the new Act on pensions amounts at least to the minimum prescribed by the Convention (45 per cent of the reference salary when the affiliated person has completed 30 years of subscriptions or employment), the Committee would be grateful if the Government would supply all the statistical information requested by the report form on *Article 26* of the Convention, Titles I and III.

3. *Reduced old-age benefits (Article 18 in relation to Article 19).* According to section 13 of the Decree, if the old-age pension resulting from the accumulated capital is lower than 70 per cent of the minimum salary in force, the affiliated person may withdraw from his account, from the age of 65 onwards, monthly amounts equivalent to 70 per cent of the said minimum salary until the capital accumulated in his account is exhausted. The Committee wishes to draw the Government's attention to the fact that in application of *Article 18, paragraph 2(a)*, of the Convention reduced old-age benefits must be guaranteed at least to a person protected who has completed, prior to the contingency, a qualifying period of 15 years of contribution or employment and that this reduced benefit must be provided throughout the contingency in accordance with *Article 19* of the Convention. The Committee would be grateful if the Government would supply detailed information on how effect is given to the Convention on this point.

4. *Duration of benefits (Articles 12, 19 and 25).* The Committee would be grateful if the Government would supply detailed information on how effect is given to these provisions of the Convention which stipulate that benefits must be granted throughout the contingency (or, for invalidity benefits, until an old-age benefit becomes payable), whatever the type of pension chosen (life annuity contract or variable monthly annuity contract). Please indicate in particular whether, whatever the type of pension chosen, the invalidity, old-age and survivors' benefits at the level prescribed by the Convention are guaranteed for a standard beneficiary throughout the contingency (or, for invalidity benefits, until an old-age benefit becomes payable). More particularly, on variable monthly annuity contracts, the Committee would be grateful if the Government would supply detailed information on the impact in regard to *Articles 19 and 25* of the Convention of section 19 of the Decree under which the amount of the variable monthly annuity will depend on the mortality of the group

of pensioners having selected this method as well as on the profitability of the variable monthly annuity account.

5. *Age of eligibility for a pension (Article 15).* The Committee notes that, according to section 7 of the Act on pensions, the age of entitlement to old-age benefits is 65 years, unless the capital accumulated by the insured person in his individual account before that age is sufficient to allow payment of a pension equal to at least 70 per cent of the basic salary. The Committee recalls that, under the former share-out system, the age of entitlement to a pension was 55 years for men and 50 for women. The Committee wishes to draw the Government's attention to the fact that in application of *Article 15, paragraph 3*, of the Convention, the age for entitlement to a pension shall be less than 65 years in respect of persons who have been engaged in occupations that are deemed to be arduous or unhealthy. The Committee also recalls in this respect the comments of the COB which emphasizes that average life expectation in Bolivia is less than 65 years. The Committee would therefore be grateful if the Government would indicate in its next report the measures taken or envisaged to respond to this concern in the light of *Article 15, paragraph 3*, of the Convention.

6. *Revision of benefits (Article 29).* The Committee recalls that, under *Article 29* of the Convention, the amount of invalidity, old-age and survivors' pensions shall be reviewed periodically following substantial changes in the general level of earnings or substantial changes in the cost of living. The Committee notes in this regard that sections 2, 4 and 320 of the Decree provide an adjustment procedure for pensions being drawn and in course of acquisition, based on the devaluation of the national currency in comparison with the United States dollar. The Committee would be grateful if the Government would provide detailed information on the application in practice of these provisions of national legislation. Please also provide all the statistical information required by the report form under this Article of the Convention in regard to pensions currently being drawn.

7. *Maintenance of rights in course of acquisition (Article 30).* Referring to the comments of the COB, the Committee would be grateful if the Government would supply detailed information on the application in practice of the provisions of the new legislation on pensions in regard to maintenance of rights in course of acquisition for persons affiliated to the old share-out system who, at the moment of entry into force of the new pensions scheme, had not yet reached the age of 55 years for men and 50 for women.

8. *General responsibility for the due provision of the benefits provided and for the proper administration of the system (Article 35).* Referring to the comments of the COB, the Committee would be grateful if the Government would supply with its next report detailed information on how effect is given in practice to *Article 35* of the Convention.

The Committee would also be grateful if the Government would indicate how payment is ensured for invalidity, old-age and survivors' pensions due under the old pension system based on share-out as well as revision of these pensions to take inflation into account.

9. *Participation of representatives of the persons protected in the management of the new pensions system (Article 36).* The Committee recalls its previous comments regarding *Article 36* of the Convention which provides that representatives of the persons protected shall participate in the management of the system. It trusts that the Government will not fail to indicate in its next report how effect is given to this provision of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Finland (ratification: 1976)

The Committee notes the observations presented by the Central Organization of Finnish Trade Unions (SAK) and the Confederation of Unions of Academic Professionals (AKAVA). As these organizations express concern over the impact of changes adopted to the pensions scheme, in particular the disability pensions, the Committee would be grateful if the Government would continue to supply in its next report detailed information on the incidence of such changes on the application of the corresponding provisions of the Convention, as well as the statistical information required by the report form under *Article 26 of the Convention.*

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In addition, requests regarding certain points are being addressed directly to the following States: *Barbados, Finland, Slovakia.*

Convention No. 129: Labour Inspection (Agriculture), 1969

Burkina Faso (ratification: 1974)

The Committee notes the Government's report for the period ending in May 2000, in which the latter indicates that agricultural undertakings are subject to labour inspection supervision on the same basis as industrial or commercial enterprises and that no particular problems are encountered in this regard. The Committee notes, however, that the Government has not supplied the information requested in previous comments, and hopes that it will not fail to supply them in its next report.

1. *Articles 9, paragraph 3, and 14, of the Convention.* The Committee would be grateful if the Government would supply details on the periodicity and content of the training seminars and workshops for labour inspectors concerned with the agricultural sector as well as the impact of evolution in the global numbers of inspectors on the number of inspections carried out in agricultural undertakings.

2. *Articles 15 and 21.* The Committee requests the Government to supply details on the practical effects of the recent decentralization of labour services on the frequency of inspections and to specify the manner in which the provisions of Decree No. 95-395 of 29 September 1995 regarding the allowances made to labour inspectors who are concerned with agriculture and consequently have specific transport requirements. The Government is requested in particular to provide information on the manner in which transport expenses of labour inspectors concerned with agriculture are defined and reimbursed.

3. *Labour inspection and child labour.* Referring to its 1999 general observation, the Committee would be grateful if the Government would supply information on the measures taken or contemplated to develop inspection activities in regard to application of legal provisions relating to the employment of children and young persons in agricultural undertakings.

Colombia (ratification: 1976)

The Committee notes the Government's report for the period ending 31 July 2000. It would be grateful if the Government would supply further information on the following matters.

1. *Safety and service conditions for labour inspectors working in agricultural undertakings.* While noting with interest the information concerning the conclusion of agreements between the labour inspectorate and certain public and private institutions such as the national apprenticeship service (SENA), the Colombian family welfare institute (ICBF) and university institutions with a view to providing labour inspectors working in rural zones with the means of transport and technical support necessary for the performance of their duties, the Committee remains concerned at the precarious security situation in respect of working conditions of labour inspectors whose right to life and physical integrity, according to the Government, is constantly threatened in a context of armed conflict. The Committee would be grateful if the government would supply copies of the abovementioned decree relating to means of transport and technical support for labour inspectors and also furnish precise information on any concrete measures taken or contemplated with a view to providing the security necessary for labour inspectors in the performance of their duties.

2. *Association of labour inspection services in the preventive control of new plant, new materials or substances and new methods of handling or processing products.* While noting that, in conformity with Act No. 100 of 1993, training of workers and employers in the prevention of occupational risks is provided within the framework of the general system of occupational risks, the Committee would be grateful if the Government would supply further information indicating how effect is given to *Article 17 of the Convention* under which the labour inspection services in agriculture should be associated, in such cases and in such manner as may be determined by the competent authority, in the preventive control of new plant, new materials or substances, and new methods of handling or processing products which appear likely to constitute a threat to health or safety.

3. *Articles 19, 26 and 27.* Referring to the Government's report on the application of section 4 of Decree No. 1530 of 1996, the Committee notes that in cases of industrial accidents or occupational illness leading to the worker's death, the inspection service in association with the joint committee on industrial safety, must carry out an inquiry within 15 days into the causes of the accident or illness and provide a report to the administrative service responsible for occupational risks on which it depends. This service transmits the report, accompanied by its opinion, to the general directorate for further action and possible application of sanctions. Noting that no reference is made in this matter to any notification of pertinent information to the labour inspection services, the Committee reminds the Government that, pursuant to *Article 19* of the Convention, the labour inspectorate shall be notified of occupational accidents and cases of occupational disease occurring in the agricultural sector in such cases and in such manner as may be prescribed by national laws or regulations (*paragraph 1*) and that, as far as possible, inspectors shall be associated with any enquiry on the spot into the causes of the most serious occupational accidents or occupational diseases, particularly of those which affect a number of workers or have fatal consequences (*paragraph 2*). The Committee also recalls that statistics of occupational accidents and occupational

diseases must be included among the information provided by the central inspection authority in the annual report for which the times for communication to the ILO as well as the content are set out in *Articles 26 and 27* of the Convention. The Committee notes with regret, once again, that no such report has been communicated to the ILO. It therefore requests the Government to supply in its next report specific information on how effect is given to *Article 19, paragraphs 1 and 2,* and to take the necessary measures, as speedily as possible, with a view to ensuring fulfilment by the central labour authority for inspection in agriculture of its obligation to prepare, publish and communicate an annual report in compliance with the form and content set out in *Articles 26 and 27.*

The Committee is also addressing a request on other points directly to the Government.

Côte d'Ivoire (ratification: 1987)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the Government's reports for 1996 and 1997 and the partial information provided in response to a number of the Committee's previous comments. The Committee also noted the Government's statement to the effect that the information concerning the labour inspectorate's activities covers all economic sectors, including agriculture. The Committee has also examined the Government's reports concerning the application of Convention No. 81. However, it notes that no annual report on the activities of the labour inspectorate has been communicated to the ILO either under Convention No. 129 or Convention No. 81. The Committee is therefore bound to again reiterate the need to publish annual reports, to enable the supervisory bodies of the ILO to regularly assess the manner in which effect is given to the Convention and to enable the social partners concerned to keep abreast of, to refer to, and actively participate in and contribute to the activities of the labour inspectorate in the manner provided for by the legislation. Where statistics are not classified according to economic sector of activity, the Committee is unable to assess the extent or effectiveness of the activities of the labour inspectorate. In order to do so, the Committee requires specific information on the activities of the labour inspectorate, as stipulated under *Article 27 of the Convention*, irrespective of whether such information is contained in the general annual report published by the labour inspectorate to assess the appropriateness of the material, financial and human resources set aside to ensure that conditions of work in the agricultural sector are met.
>
> Moreover, the Committee notes the information provided by the Government to the effect that the inter-professional collective agreement of 20 July 1977, whose field of application at the time of adoption excluded employers and workers in the agricultural sector, now gives effect to the Convention. The Committee notes that the provisions of this inter-professional collective agreement establishes employer obligations which require close supervision by the labour inspectorate. The Committee therefore considers the publication of periodical statistics on the violations committed and sanctions imposed indispensable in this regard.
>
> Finally, the Committee notes that copies of annual inspection reports are not transmitted to the representative organizations of employers and workers in the agricultural sector, as a consequence of which, these organizations are unable to formulate any observations they may have on the manner in which the Convention is applied.
>
> The Committee addresses a direct request to the Government in relation to the application of *Articles 1, 3, 6, 7, 8, 9, 12, 13, 14 and 21* of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Kenya (ratification: 1979)

The Committee notes the Government's brief report for the period ending May 2000, and the report for 1999 of the Labour Department of the Ministry of Labour and Human Resource Development.

1. *Difficulties in complying with reporting obligations.* With reference to its previous comments, the Committee notes that the Government is still not in a position to provide information on the activities of the labour inspectorate in the agricultural sector, as such information is combined with that on other sectors of economic activity. The Committee notes the request of the Government for ILO technical assistance so as to restructure the labour inspection system, which will improve the processes for the management of the statistical data required by the Convention. The Committee hopes that this assistance will be provided in the near future so as to enable it to meet the necessary conditions for the implementation of the Convention and to improve its compliance with the obligation to provide reports under article 22 of the Constitution of the ILO.

2. *Need to identify data concerning inspection activities in the agricultural sector.* Noting that the principal information concerning the agricultural sector provided in the annual report of the Labour Department is that most agricultural employers provide employees with housing in tea, sisal and coffee plantations, the Committee would be grateful if the Government would indicate whether and, if so, the conditions of life of workers and their families are supervised by labour inspectors, as suggested by *Article 6, paragraph 2, of the Convention.*

3. *Means of transport and inspections of agricultural enterprises.* With reference to the information provided in the report of the Labour Department concerning the trends in inspections in all sectors of activity combined, the Committee notes that, while in 1999 an increase of 13 per cent in the total number of inspections was registered in relation to 1998, certain services still suffer from an absence of means of transport and the old age and unreliability of vehicles, where they exist. The report indicates that provincial and district labour officers have been requested to increase their interest in labour inspection and that headquarters and provincial officers plan to increase evaluation and monitoring visits to local inspection stations. The Committee would be grateful if the Government would provide full information on these measures and indicate in particular their impact on the improvement of the conditions of work of labour inspectors operating in the agricultural sector and on their effectiveness in relation to *Article 21* of the Convention, under the terms of which agricultural enterprises shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions.

4. *Labour inspection in agriculture and child labour.* The Committee notes from the report of the Department of Labour for 1999 that financial difficulties appear to have temporarily prevented action by the Child Labour Unit of the Department of Labour, as well as by the labour inspectorate in this respect. It, however notes from the same report the efforts made to formulate a national policy on child labour, awareness-raising campaigns through the media, relations with the institutions concerned and the active

involvement of the Child Labour Unit in a number of significant activities, such as the preparation of the third African Conference on Child Abuse and Neglect (Nairobi) and the preparation of district plans of action for the year 2000. Also noting that the above Unit maintains relations with university researchers in the field of child labour, the Committee hopes that these efforts will result in the near future in a significant improvement of the situation of child victims of the economic situation, and in a progressive reduction of the phenomenon of child labour leading to its eradication, particularly in the agricultural sector, with the participation of the inspection services. With reference to its general observation of 1999, the Committee would be grateful if the Government would provide information on the practical measures taken with a view to providing labour inspectors with the means necessary to participate, in accordance with *Article 3, paragraph 1(b)*, of the Convention, in the development of appropriate legislation in this field and effectively supervise the application of the relevant legal provisions which are in force.

5. *Labour inspection and the amendment of legislation with a view to poverty reduction.* The Committee notes, from a report of the ILO Area Office in Dar es Salaam, received in November 2000, that a paper concerning the identification and prioritization of laws for review for the purpose of the reduction of poverty was submitted by the Ministry of Labour and Human Resource Development at a workshop held in Mombasa in October 2000, and that funds for labour law reform have been granted by UNDP, with ILO support, with a view to financing legislative reform in the fields of formal and informal labour, micro-enterprises and employment creation. The Committee would be grateful if the Government would indicate the role played by inspection services and provide information on the development of this activity.

Morocco (ratification: 1979)

The Committee notes the Government's report for the period ending June 2000, and the annual inspection report provided subsequently.

1. *Labour inspection and child labour.* In response to the general observation made by the Committee in 1999 under this Convention and Convention No. 81, the Government indicates that the protection of children from child labour is ensured through the application of the Decree of 24 April 1973, establishing a supervisory mechanism, including the imposition of penal sanctions in the event of the violation of its provisions. The Government also indicates that efforts made with regard to labour inspection in general and in the application of provisions on child labour have made it possible to establish a technical cooperation project from 1998 to 2001 with a view to:

- strengthening the training of labour inspectors and inspectors of the agricultural legislation to improve the application of national laws, international labour Conventions, and particularly Conventions Nos. 138 and 182 on child labour, and the United Nations Convention on the Rights of the Child;
- taking measures to institutionalize an effective inspection service covering labour and social legislation in agriculture;
- guaranteeing the socio-economic rights of working children; and
- combating the effects of hazardous work on children.

Among the measures taken to improve the skills of inspectors in the field of child labour, the Government refers to four training sessions held between 1999 and 2000, and training sessions on occupational safety and health, one of which was held in 1999 and the other was announced for 2000, in which labour inspectors in agriculture were due to participate, in the context of a technical cooperation programme with the Arab Safety and Health Institute in Damas (Syrian Arab Republic).

The Committee notes that section 13 of the Dahir of 1973, to which the Government refers as legislation protecting children from work, in contradiction with the Minimum Age Convention, 1973 (No. 138), ratified in January 2000, sets the minimum age for admission to employment or work at 12 years instead of 15, and the minimum age for admission to any type of employment or work likely to jeopardize the health, safety or morals of young persons at 16 years instead of 18. In accordance with section 14 of the above Dahir, inspectors responsible for labour in agriculture may even grant exemptions from the prohibition of night work by children aged at least 16 years. With reference to its observation in 1999 on the role of inspection in supervising child labour, the Committee hopes that the Government will rapidly take the necessary measures to resolve the above contradictions between the legislation that is in force and the provisions of Convention No. 138, so as to allow labour inspectors to ensure effective supervision over situations of child labour.

The Government indicates in its report with regard to the action taken on reported violations, including of legal provisions respecting child labour, that inspectors are free to decide to refrain from drawing up official reports and to opt instead to issue an observation combined with advice and useful guidance to re-establish conformity with the law. While admitting that the labour inspectorate must discharge, in addition to a repressive function with regard to violations, a function of education to improve the application of labour legislation, the Committee wishes to emphasize the particular vulnerability of children and young persons in a work context and the consequent necessity for labour inspectors to ensure greater vigilance in their case. The imposition of dissuasive penalties upon those who violate the relevant legal provisions, particularly relating to the health, safety and morals of children and young persons, is indispensable to reinforce the authority of inspection. The Committee considers in this respect that the provisions of the above Dahir cannot themselves constitute an adequate legal basis for the exercise of the powers assigned by the Convention to labour inspectors with a view to the effective supervision of conditions of work and the protection of children and young persons in the agricultural sector. Moreover, the Dahir provides in sections 10, 17, 33, 38 and 51 that regulatory texts shall be made, among other matters, to prohibit the employment of women and children in arduous or hazardous work and in the use of harmful products utilized for agricultural work. The Government is therefore requested to provide the respective schedule and a copy of the texts issued under the above sections of the Dahir which are subject to supervision by the labour inspectorate, as well as to take the necessary measures to ensure that labour inspectors in agriculture are able to afford effective protection to young workers, in accordance with *Article 6, paragraph 1(a), of the Convention*, and to provide information on any progress achieved in this field.

2. *Notification of occupational accidents and cases of occupational disease and the prevention of occupational risks.* The Committee notes the information provided by the Government with regard to the manner in which labour inspectors are informed of

occupational accidents. It recalls that, in accordance with *Article 19, paragraph 1*, of the Convention, cases of occupational disease also have to be notified to inspectors. With reference to its general observation of 1996 concerning the notification and recording of occupational accidents and diseases, the Committee draws the Government's attention to the objective of the above provision of the Convention, namely the effective contribution of the labour inspectorate to the development of an appropriate policy for the elimination and prevention of occupational risks in the agricultural sector, and in particular the use of equipment and products and substances which are dangerous for the safety and health of workers and their families, where the latter live on plantations. The Committee cannot overemphasize the need to take measures to ensure that inspectors are required to be notified of cases of occupational disease and requests it to provide information in this respect.

The Committee is addressing a request directly to the Government on other matters relating to the application of the Convention.

Norway (ratification: 1971)

The Committee notes that in comments received by the ILO in January 2001 on the Government's report for the period ending in May 2000, the Norwegian Federation of Trade Unions (LO) expressed its concern at the recent staff downsizing which has affected the labour inspectorate's supervisory activity in the agriculture sector, and particularly its capacity to deal with working environment issues. In the LO's view, staff cutbacks are not a sound response to the accidents and fatalities that occur in the sector each year. The Committee would be grateful if the Government would state its position on this matter and provide information on any measures taken or envisaged to deal with the occupational safety issues referred to by the LO.

Portugal (ratification: 1983)

The Committee notes the information provided by the Government in its report for the period ending 31 May 2000, and the annual inspection reports for the period 1999-2000. The Committee requests the Government to provide additional information on the following points.

1. *Staff of the labour inspectorate and number of enterprises liable to inspection (Articles 14, 21, 26 and 27) of the Convention.* Noting that the labour inspectors who cover agriculture are the same as those covering other sectors of the economy, the Committee notes that their overall number fell between 1998 and 2000 from 325 to 316, and that the number of inspections carried out in agriculture *(Article 27(d))* fell over the same period from 2,874 to 587, with the number of enterprises inspected declining from 2,097 in 1998 to 493 in 2000. The Committee notes that the number of enterprises liable to supervision by the labour inspectorate *(Article 27(c))* is not provided, with the result that it does not have sufficient information available to assess the level of application of the Convention in relation to needs. It requests the Government to take the necessary measures to ensure that this information is provided regularly in the annual inspection report, along with information on the subjects enumerated in *Article 27(a) to (g)*.

2. *The preventive control of new plant, new materials or substances and new methods of handling or processing products (Article 17).* The Committee would be

grateful if the Government would provide information on the measures taken to give effect to this provision of the Convention or, in the event that no measures have yet been taken, requests it to take the necessary steps for this purpose and to provide all relevant information.

3. *Labour inspection and child labour in agriculture.* With reference to its general observation of 1999, the Committee notes the information provided by the Government concerning the involvement of the general labour inspectorate in the context of a plan to eliminate the exploitation of child labour (PEETI). The Committee also notes the statistics concerning the incidence of working children in the various sectors of the economy over recent years and notes that the figures concerning child labour in agriculture are only provided for 1999 (15 children), but that no figure is given under this item for 2000. The Committee would be grateful if the Government would indicate the measures which have been taken to provide labour inspection services with the necessary resources to combat unlawful situations of child labour continuously and effectively, and if it would provide information on the results achieved in this respect, particularly in the agricultural sector.

Syrian Arab Republic (ratification: 1972)

The Committee notes that the Government's report does not contain the information requested previously. It is therefore bound to reiterate its previous comments on the following points:

> The Committee notes that neither the Government's report nor the annual report provide information on the human and material resources available to the labour inspectorate to discharge its functions in the agricultural sector. It also observes the information in the annual report that, during the period under consideration, no inspections were carried out in agricultural establishments, even though the number of physical work-related accidents amounted to 188. The statistics on occupational diseases provided in the annual report are not disaggregated by branch of activity or economic sector, and do not therefore indicate the number of cases which occurred in agricultural activities. The Government indicates in this respect in its report that appropriate statistics will be provided when they become available. The Committee concludes from the above that the agricultural sector suffers from an absence of any inspection and that the Convention is not applied. It wishes to draw the Government's attention to the fact that inspections in agricultural enterprises are the most effective means of ascertaining their occupational health and safety situation. The total absence of such inspections is bound to encourage employers to neglect measures of prevention and protection for workers against employment accidents and occupational diseases. Furthermore, lack of knowledge of the scope of application of the relevant legal provisions does not facilitate the implementation of policies or measures to improve health and safety conditions in the agricultural sector, and contributes to marginalizing workers in the sector in relation to national policy in these areas. The priority is therefore to take the necessary measures to ensure that the inspection services discharge their function, in accordance with *Article 21 of the Convention*, of inspecting agricultural enterprises as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions. The Committee requests the Government to take the necessary measures as soon as possible for this purpose and to ensure the inclusion in annual inspection reports of separate statistics for the agricultural sector on each of the subjects enumerated in *Article 27(b) to (g)*.

Furthermore, noting that the copy of the annual inspection report for 1999 announced by the Government in its report has not been received, the Committee requests the Government to take the necessary measures to ensure in future the publication and transmission to the ILO of such a report within the time limits set out in *Article 26*.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Colombia, Côte d'Ivoire, Hungary, Morocco, Portugal.*

Convention No. 130: Medical Care and Sickness Benefits, 1969

Bolivia (ratification: 1977)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In reply to the comments that the Committee has been making for a number of years, the Government cites section 10 of the new Act on Pensions No. 1732 of 1996, covering benefits for invalidity as a result of occupational accidents, stating that all provisions contrary to this Act have been repealed. The Committee draws the Government's attention to the fact that benefits for employment injury and occupational diseases are considered under the Employment Injury Benefits Convention, 1964 (No. 121), and that the matters raised by the Committee in connection with Convention No. 130 relate solely to medical treatment and medical benefits of ordinary origin. In this regard, the Committee requests the Government to confirm that the legal provisions applicable to these branches of social security to which it referred in its previous reports (Legislative Decree No. 10173 of 1972, No. 13214 of 1975 and No. 14643 of 1977) are still in force. In addition, it trusts once again that the Government's next report will contain detailed information on the following matters raised in the Committee's previous comments.
>
> 1. *Part II (Medical care), Article 16, paragraph 1, of the Convention.* The Committee once again requests the Government to adopt the necessary measures to ensure that medical care is provided throughout the contingency, in accordance with this provision of the Convention.
>
> *Article 16, paragraph 3.* The Committee recalls that, under section 23 of Legislative Decree No. 13214 of 1975, in the event of sickness certified by the responsible physician before the insured person is given sick leave, entitlement to the corresponding medical care for this sickness shall not be interrupted and may continue up to the legal limit of 26 weeks, or less if the medical treatment is terminated. The Committee trusts that the Government will indicate in its next report the measures that have been adopted to extend, in the case of beneficiaries who lose their status as insured persons, the duration of medical care for prescribed diseases recognized as entailing prolonged care, as required by this provision of the Convention.
>
> 2. *Part III (Sickness benefit), Article 21, in conjunction with Article 22.* The Committee once again draws the Government's attention to the fact that, in accordance with *Articles 21 to 23*, the rate of the sickness benefit shall be such as to attain a minimum level (60 per cent) for a standard beneficiary (a man with a wife and two children). *Articles 22 to 24* offer the Government various formulae that can be adapted to national practice for the determination of this minimum level. The formula envisaged in *Article 22* is intended to take into account systems of protection which, as is the case of the Bolivian social security system, provide benefits calculated on the basis of the beneficiary's former earnings. The Committee recalls in this respect that, in view of the fact that Legislative Decree No. 13214 of 1975, and section 81 of the Social Security Code, as amended, envisage a maximum

> amount for the rate of benefit and for the earnings taken into account for its calculation, the percentage of 60 per cent provided for in the Convention must be calculated with reference to a standard beneficiary whose earnings are equal to the wage of a skilled manual male employee (*Article 22, paragraph 3*). The information requested under the terms of *Article 22* of the Convention and, in particular, relating to the wage of a skilled manual male employee, is merely intended to permit comparison of the rate of benefit paid under the national legislation with the minimum rate established by the Convention. In these conditions, the Committee once again hopes that the Government will be able to take the necessary measures to provide the information required in the report form adopted by the Governing Body on Convention No. 130, and particularly the information on the wage of a skilled manual male employee, determined in accordance with *paragraph 6 or 7 of Article 22*, the amount of the sickness benefit paid to such a skilled worker, and the maximum level of wages subject to contributions.
>
> 3. *Article 26, paragraph 1*. The Government states in its report that sickness insurance benefit is provided for 52 weeks and, for chronic illnesses, this period may be extended by the Ministry of Health. With regard to cash benefit, the subsidy for temporary incapacity is provided for 52 weeks at a rate that is equivalent to 75 per cent of the wage that is subject to contributions. The Committee once again emphasizes that section 30 of Legislative Decree No. 13214, of 1975, establishes that the common sickness subsidy commences from the fourth day of incapacity, with a maximum duration of 26 weeks, which can be extended for another 26 weeks if by doing so it is possible to avoid the status of invalidity. The Committee recalls that this requirement is not authorized by *Article 26* of the Convention, which provides that sickness benefit shall be granted throughout the contingency, provided that the grant of benefit may be limited to not less than 52 weeks in each case of incapacity. In these conditions, the Committee once again reminds the Government of the need to harmonize the provisions of the legislation that is in force with those of the Convention.
>
> 4. In previous comments, the Committee had referred to the possibility of having recourse to the technical assistance of the Office to resolve difficulties arising out of the application of the Convention. In addition, the Government had referred to a structural reform of social security in Bolivia. As so many years have passed since these matters were first raised concerning the application of the Convention, the Committee trusts that the Government will provide a detailed report in which it will take fully into account the matters that have been raised in order to give full effect to the Convention and that it will not hesitate to have recourse to the technical assistance that can be provided by the Office to assist its efforts to apply the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, a request regarding certain points is being addressed directly to *Slovakia*.

Convention No. 131: Minimum Wage Fixing, 1970

Bolivia (ratification: 1977)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the information provided by the Government in its report relating to the previous observation.

The Committee notes the Government's statement that, although Supreme Decree 21060 of 29 August 1985 guarantees the fixing of the minimum wage through collective bargaining between employers and workers, in practice the "national minimum wage" is established each year by the Government by means of a Supreme Decree, for both the public and the private sectors, and the amount is considered to be the limit below which wages cannot be fixed. The Committee notes that, in accordance with section 23 of Supreme Decree 23093 of 16 May 1992, which provides for wage increases, in the private sector such increases are to be negotiated directly in each enterprise. The Committee requests the Government to indicate whether or not this provision repealed section 62 above of Supreme Decree 21060 of 29 August 1985. Furthermore, the Committee also notes that, according to the Government, in the private sector the annual setting of the national minimum wage serves as a basis for the adoption of higher minimum wages which, to distinguish them from the former, may be called "institutional basic wages". These wages are fixed on the basis of machinery and specific factors in each sector of work and on the production capacity of each production unit. Taking into account the above information, the Committee recalls that when a member State ratifies a Convention, it is under the obligation to adopt the necessary measures to give effect to its provisions. The Convention provides in *Article 4, paragraph 2*, for full consultation with representative organizations of employers and workers concerned or, where no such organizations exist, representatives of employers and workers concerned for the fixing and adjustment of minimum wages.

The Committee recalls that, since its first comments on the application of this Article of the Convention, it has been requesting the Government to adopt the necessary measures to ensure full consultations with the representative organizations of employers and workers. The Committee set up by the Governing Body to examine the representation made by the Confederation of Private Employers of Bolivia (*Official Bulletin*, Vol. LXVIII, 1985, Series B, Special Supplement 1/1985) alleging non-observance of the Convention, with reference to the consultations which must be held, reiterated that the Government should adopt appropriate measures to ensure such consultations. The Committee has continued to make this request. However, the Committee regrets to note that the Government has not taken any measures in this respect, and indeed has confirmed in its latest report that the machinery in force for the fixing of wages does not appear to involve the consultations required by *Article 4, paragraph 2, of the Convention*. The Committee therefore urges the Government to take the necessary measures and to hold full consultations with representative organizations of employers and workers concerned when determining the level of minimum wages and to provide information on the measures adopted in this respect.

The Committee notes the information concerning the elements taken into consideration in determining the level of minimum wages, in accordance with *Article 3* of the Convention. The Committee notes the Government's statement that from the social and juridical perspective, the minimum wage is understood as the vital support of a worker enabling him to meet his basic subsistence needs. The Committee would be grateful if the Government would indicate the manner in which "basic subsistence needs" are assessed, or on the basis of which minimum subsistence products such needs are determined.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

The Committee is raising in a direct request other points relating to the Convention on which it has not received a reply from the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Bolivia, El Salvador, Guyana, Nepal, Zambia.*

Convention No. 132: Holidays with Pay (Revised), 1970

A request regarding certain points is being addressed directly to *Ireland.*

Convention No. 133: Accommodation of Crews (Supplementary Provisions), 1970

Liberia (ratification: 1978)

The Committee notes once again with regret that the Government's first report has not been received. In the 89th Session of the International Labour Conference in June 2001 a Government representative indicated that the first report would be submitted to the Committee in the near future. The Committee urges the Government to submit the report for the attention of the Committee at its next session.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Côte d'Ivoire, France, Nigeria.*

Information supplied by the *Russian Federation* in answer to a direct request has been noted by the Committee.

Convention No. 134: Prevention of Accidents (Seafarers), 1970

Costa Rica (ratification: 1979)

Further to the comments it has been making for several years, the Committee notes the information that the regulations on occupational safety and health of seafarers that the Government had referred to in its report in 1998 have not been adopted. The Government indicates however that the provisions of the national legal system of occupational safety and health cover all workers in river and maritime fishing, in maritime, coastal and river transport. The Committee recalls again that it has been expressing the hope that the Government would enact occupational safety and health regulations envisaged by section 283 of the Labour Code, for all seafarers who are employed in any capacity on board a ship, other than a ship of war, and ordinarily engaged in maritime navigation, as provided for under *Article 1, paragraph 1, of the Convention.* Consequently, the Committee trusts the Government will not fail to adopt shortly the necessary provisions concerning the prevention of occupational accidents for seafarers (*Articles 4 and 5* of the Convention), the appointment of suitable persons or the establishment of joint committees *(Article 7)* and the prevention of occupational accidents programmes *(Article 8).*

Article 2 and Part V of the report form. Further to its previous comments, the Committee notes the statistical information provided by the Government. The Committee would like to point out that under *Article 2* of the Convention, statistics are required to be recorded on the number, causes and effects of occupational accidents, with a clear indication of the department on board ship (for instance, deck, engine or catering) and the area (for instance, at sea or in port) where the accident occurred. The Committee hopes the Government will provide such statistics, including information on the number of workers covered by the legislation, the number and nature of the contraventions reported and the resulting action taken.

[The Government is asked to report in detail in 2003.]

France (ratification: 1978)

The Committee notes that the Government's reports of 1999 and 2000 do not contain replies to its previous comments. It must therefore repeat its previous observation dealing with the following points.

> 1. Further to its previous comments concerning the application of *Article 4, paragraph 3(c), (g) and (i)* (provisions concerning the prevention of occupational accidents to seafarers caused by machinery, anchors, chains and lines, and the supply of personal protective equipment), and *Article 5* (clear indication of the obligation of shipowners and seafarers to comply with the provisions concerning the prevention of accidents) *of the Convention*, the Committee notes the provisions of a draft decree amending Decree No. 84-810 of 30 August 1984 relating to the protection of human life at sea, lodging on board ship and prevention of pollution, transmitted to the Council of State, and to a draft order amending the Order of 23 November 1987 on safety of vessels which, once they are adopted, would give effect to the provisions of the Convention in question. The Committee hopes that the texts mentioned will be adopted very soon and that the Government will supply copies once they are adopted.
>
> 2. *Articles 6, paragraph 4, and 9, paragraph 2.* The Committee reminds the Government that appropriate measures shall be taken to bring to the attention of seafarers copies or summaries relating to accident prevention measures and to bring to their attention information concerning particular hazards, for instance, by means of official notices containing relevant instructions. The Committee requests the Government to indicate the measures taken to give effect to these provisions of the Convention.

The Committee hopes that the Government will take all possible measures in the near future.

[The Government is asked to report in detail in 2002.]

Nigeria (ratification: 1973)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 2 of the Convention.* In its previous comments, the Committee requested the Government to supply copies of relevant extracts of reports of inquiry into occupational accidents, as well as samples of statistics compiled in conformity with the provisions of this Article, drawing the attention of the Government to the obligation of the competent authority to ensure that, in accordance with *Article 2, paragraphs 1 and 2*, of the Convention, all occupational accidents are adequately reported, that comprehensive statistics shall not be limited to fatalities or to accidents involving the ship, and that statistics of accidents are kept and analysed. Taking into account the Government's indication that accidents on board ships had been reported only when the ship sustained structural damage or when there had been loss of life or serious injury, the Committee earlier expressed the hope that records of minor accidents kept by private and government shipping companies would be integrated into reporting procedures and statistics.
>
> The Committee notes that no such information has been provided by the Government. It asks the Government to indicate measures taken to give effect to this Article and to supply

copies or relevant extracts of reports of inquiry into occupational accidents, as well as samples of statistics compiled in accordance with the provisions of the Convention.

Article 3. In its previous comments, the Committee, taking into consideration the Government's indication that the necessary measures would be undertaken for research to be conducted into the causes and prevention of accidents aboard Nigerian ships, expressed the hope that such research would be carried out and that the Government would provide detailed information on progress made in this respect.

Since no information has been supplied on this subject in the Government's latest report, the Committee, once again, asks the Government to supply such information on any research undertaken into general trends and hazards revealed by statistics, in order to provide a sound basis for the prevention of accidents which are due to particular hazards specific to maritime work.

Articles 4 and 5. In its previous comments, the Committee requested the Government to supply information concerning provisions adopted or contemplated in order to prevent occupational accidents and covering the specific field of stage and mooring ropes *(Article 4(3)(h))* as well as the various matters listed in *Article 4(3)(a), (b), (c), (d) and (i).* The Committee notes the Government's indication in its latest report that the Merchant Shipping (Life-saving Appliances) Rules 1967 provide for occupational accident prevention standards and deal extensively with *Article 4* of the Convention. The Committee would be grateful if the Government would supply details of provisions related to the prevention of occupational accidents of seafarers which are required by virtue of the above-mentioned subparagraphs of *Article 4* and to specific obligations of shipowners and seafarers in this respect under *Article 5.*

Article 7. The Committee asked the Government to supply a copy of a statutory instrument establishing the responsibility of national surveyors and engineers, who are crew members, to conduct inspection on board ship, and duties of a safety or accident committee on board, chaired by the Master, with the Chief Engineer, the Chief Officer, the Second Engineer and the Radio Officer as members.

Since such an instrument has not been furnished with the Government's latest report, the Committee again requests the Government to supply a copy of any provisions which have been made to give effect to this Article.

Articles 8 and 9. In previous comments the Committee asked the Government to provide details concerning the tripartite establishment and implementation of programmes for the prevention of occupational accidents *(Article 8)* and the inclusion of instruction in accident prevention and health protection in the curricula of vocational training institutions for all categories and grades of seafarers *(Article 9, paragraph (1)).*

Since such information has not been supplied with the Government's latest report, the Committee again requests the Government to provide information on: (i) programmes which have been undertaken for the prevention of occupational accidents, indicating the manner in which the cooperation and participation of shipowners, seafarers, and their organizations are assured; and (ii) measures ensuring the inclusion, as part of the instruction in professional duties of all categories and grades of seafarers, of instruction in the prevention of accidents and in the protection of health in employment.

The Committee hopes that the Government will make every effort to take the necessary steps in the very near future.

United Republic of Tanzania (ratification: 1983)

Further to its previous comments, the Committee notes with regret from the Government's report that the appropriate measures referred to by the Government in its previous report have not been adopted due to financial constraints and due to circumstances beyond its control. The Committee recalls that since 1990, it has been raising the question of the need for the Government to take measures to give effect to the provisions of the Convention. It is bound to underline the obligations that sovereign governments that ratify Conventions have to adopt all laws, regulations and the practical provisions to apply them. The Committee wishes to draw the Government's attention to the ILO's Code of practice on accident prevention on board ship at sea and in port as well as to the inspection of labour conditions on board ship: Guidelines for procedure (Prevention of occupational accidents, pages 42 to 51) which provide useful guidance in giving effect to the provisions of the Convention. The Committee urges the Government to adopt the necessary measures to give effect to the Convention. It wishes to also invite the Government to consider seeking the technical assistance of the Office in addressing the matters raised in its previous comments, which read as follows:

> *Article 1, paragraph 3, of the Convention.* In its previous comment, the Committee has noted that, according to the Government's report, the provisions of the Convention are applied by means of the Factories Ordinance (Cap. 297) and the Dock Rules 1692 GN 444 (issued under section 55 of the Factories Ordinance). However, the Committee notes that the provisions cited by the Government are only applicable to the processes of loading and unloading ships in ports and harbours (section 58 of the Factories Ordinance and section 2 of the Dock Rules). The Committee is bound to note that the Convention is applicable to all accidents to seafarers arising out of or in the course of their employment, such as accidents arising on open sea. The Committee refers in this context to its remarks below concerning *Article 4* of the Convention.
>
> *Article 2, paragraph 4.* The Committee takes note of the indication of the Government in its report that in the case of the accident of the "MV Bukoba" a formal investigation was undertaken. The Committee also reminds the Government that investigations according either to section 7 of the Accidents and Occupational Diseases Notification Ordinance or section 266(1) of the Merchant Shipping Act, of 1967 are optional whilst the Convention provides for mandatory investigations into the causes and circumstances of occupational accidents resulting in loss of life or serious personal injury. Consequently, the Committee hopes that the Government will indicate in its next report the measures adopted or envisaged to apply this provision of the Convention.
>
> *Articles 3 and 8.* Referring to its previous comments, the Committee recalls that there are no specific provisions in the legislation respecting the prevention of industrial accidents and occupational diseases. This issue is only covered in part by the Dock Rules of 1962 and the Factories Ordinance (Cap. 297) of 1950. The Government indicated in its previous report that these two instruments were being revised in view of the need to undertake research on the general situation as regards industrial accidents and the risks that are peculiar to maritime employment and to establish accident prevention programmes and implement them with the cooperation of organizations of shipowners and seafarers. The Committee observes that due to financial constraints, the Government is not able to carry out the mentioned revision. The Committee hopes that the Government will be in a position in the near future to revise the national legislation in order to bring it into conformity with the provisions of the Convention.
>
> *Article 4, paragraphs 2 and 3(b), (h) and (i).* The Committee noted the Government's indications that no provisions have been adopted with a view to preventing accidents which are peculiar to maritime employment, and on its intention to revise the national legislation in this respect. The Committee notes that this revision has not been carried out due to circumstances beyond control. The Committee hopes that this revision will be carried out

> without delay and requests the Government to inform it of any development in the situation in this respect.
>
> *Article 6, paragraph 3.* The Committee has previously noted the information on the Government's intention to train the inspection and enforcement authorities so that they are familiar with maritime employment and its practices. The Committee observes that due to financial constraints the training project was not carried out. The Committee hopes that the Government will be able to adopt the necessary measures to give effect to this provision of the Convention and that the training courses for the abovementioned authorities will be implemented in the near future.
>
> *Article 6, paragraph 4.* In its previous report, the Government reported that, when the legislation is revised, taking into account the need to incorporate provisions on the prevention of accidents to seafarers, copies of these provisions will be brought to the attention of seafarers. The Committee requests the Government to indicate the manner in which it envisages bringing to the attention of seafarers copies or summaries of the provisions in question.
>
> *Articles 8 and 9.* The Government indicated in its report that although no information is available, instructions were provided wherever guest lecturers from relevant institutions were invited to lecture at institutes such as, among others, the Occupational Health and Safety of the Factory Inspectorate in the Department of Labour. In addition, according to the Government's report received in 1990, Bandari College, situated in Dar es Salaam, is a vocational training centre where seafarers of all categories can be instructed and informed of risks to their health and safety. The Committee recalls that these Articles of the Convention provide for the implementation of programmes for the prevention of occupational accidents by the competent authority with the active cooperation of shipowners' and seafarers' organizations or their representatives and other appropriate bodies, and for the establishment of national or local joint accident prevention committees or ad hoc working parties made up of representatives of the social partners.
>
> Please indicate whether instruction in the prevention of accidents and the protection of health in employment is included in vocational training programmes and whether seafarers are provided with instruction on a regular basis.

The Committee expresses once again the firm hope that the Government will be able to supply information in its next report on the measures which have been taken expressly to bring its legislation into conformity with the Convention.

Uruguay (ratification: 1977)

The Committee notes the information supplied by the Government in its report. In particular, it notes with interest in regard to *Article 7 of the Convention* that under section 17 of Act No. 16.387 of 27 June 1993, as superseded by Act No. 16.736 of 5 January 1996, the minimum safe crew for each merchant vessel shall be determined by the competent authority. The operative crew shall be established by the shipowner with the agreement of the vessel's master.

Further to its previous comments regarding *Article 4, paragraph 3(h),* of the Convention, the Committee notes that the Government will take into account the Committee's comments indicating that adequate measures should be taken for the prevention of occupational accidents in the handling of dangerous cargo and ballast, as laid down in this provision of the Convention. The Committee recalls that, pursuant to *paragraph 1* of this Article, provisions concerning the prevention of occupational accidents shall be laid down by laws or regulations, codes of practice or other appropriate means. Finally, the Committee again expresses the hope that the Government will adopt such measures as the Committee has been requesting since 1989.

Furthermore, the Committee notes that inspection programmes have not been carried out within the scope of the Convention and, finally, compliance with the provisions of the Convention in practice have not been ensured. The Committee recalls that in accordance with *Article 6* the necessary measures shall be taken to ensure the proper application of the provisions of the Convention. The Committee therefore hopes that the Government will adopt appropriate measures to comply with the obligation set out in this Article of the Convention.

The Committee also hopes that, further to the adoption of these measures and the inspections carried out, the Government will be in a position to communicate information on the practical application of this Convention, for example by supplying extracts from the reports of the inspection services, information on the number of workers covered by the legislation, the number and nature of the contraventions reported and the resulting action taken, and the number of occupational accidents reported, etc., as required in *Part V of the report form.*

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Brazil, Finland, Greece, Israel, Italy, Mexico, New Zealand, Spain.*

Information supplied by *Japan* in answer to a direct request has been noted by the Committee.

Convention No. 135: Workers' Representatives, 1971

Republic of Moldova (ratification: 1996)

The Committee notes the Government's report.

The Committee takes note with satisfaction of the Law on Trade Unions dated 7 July 2000, which complies with the requirements of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Chad, Chile.*

Information supplied by *Mali* in answer to a direct request has been noted by the Committee.

Convention No. 136: Benzene, 1971

Bolivia (ratification: 1977)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> With reference to the comments it has been making for 15 years, the Committee notes the information supplied by the Government in its report. The Government indicates that it has completed elaboration of draft regulations concerning the use of asbestos in conditions of safety, and that it will undertake the drafting of corresponding regulations for the

construction sector, of manuals on the establishment of joint occupational safety and health committees and on the establishment of occupational safety and health departments within enterprises. The Committee further notes that according to the Government, despite the absence of specific regulations regarding the use of benzene, implementing measures have been adopted based on the provisions of the general law in force regarding occupational safety and health which regulates the handling and use of various chemical substances. The Government further indicates that the Manifesto on Environmental Impact, as well as safety regulations in undertakings and plans setting out eventualities in cases of occupational hazards are currently applied in all industries. The Committee requests the Government to indicate precisely how the abovementioned texts apply the provisions of the Convention.

The Committee notes that since its first report in 1982, when the Government had announced that it will take the necessary measures to apply the provisions of the Convention, no measures have as yet been adopted in this respect. The Committee therefore recalls that measures are necessary to give application to the main provisions of the Convention, in particular *Article 1(b) of the Convention* (the protective measures elaborated must apply not only to benzene but also to products the benzene content of which exceeds 1 per cent by volume); *Article 2* (whenever harmless or less harmful substitute products are available, they shall be used instead of benzene or products containing benzene); *Article 4, paragraphs 1 and 2* (prohibition of the use of benzene and of products containing benzene in certain work at least making use of benzene as a solvent or diluent, except where the process is carried out in an enclosed system or where there are other equally safe methods of work); *Article 6, paragraphs 1, 2 and 3* (measures shall be taken to prevent the escape of benzene vapour into the air of places of employment, and concentration of benzene in the air of the places of employment must not exceed a ceiling value of 25 parts per million; directions must be issued on carrying out the measurement of the concentration of benzene in the air of places of employment); *Article 7, paragraph 1* (work processes involving the use of benzene or of products containing benzene shall as far as practicable, be carried out in an enclosed system); and *Article 11, paragraphs 1 and 2* (prohibition to employ pregnant women, nursing mothers and young persons under 18 years of age in work processes involving exposure to benzene or products containing benzene). The Committee renews its hope that the Government will take the necessary measures in the near future to apply the Convention.

Article 9. The Committee again notes from the Government's report that the draft regulations concerning medical services include, as part of the general routine, medical examinations prior to employment, during employment and thereafter. The Committee understands from the Government's statement that these medical examinations are not provided for under specific legislation, but are carried out by the "Superintendency of Occupational Health" and recorded on forms established by the Ministry of Labour for notification of occupational accidents. The Committee recalls that this Article of the Convention provides for specific medical examinations prior to employment and thereafter periodically for all workers who are to be employed in work processes involving exposure to benzene or to products containing benzene, to establish their fitness for such employment. The Committee trusts that the draft regulations concerning medical services will contain provisions to ensure that the required examinations are carried out to guarantee the application of this Article of the Convention. The Committee requests the Government to provide information regarding the adoption of the abovementioned draft as soon as possible.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 137: Dock Work, 1973

Requests regarding certain points are being addressed directly to the following States: *Afghanistan, France, United Republic of Tanzania.*

Convention No. 138: Minimum Age, 1973

Azerbaijan (ratification: 1992)

The Committee recalls that the minimum age of 16 years was specified under *Article 2, paragraph 1, of the Convention* as regards Azerbaijan. It notes with regret that the new Labour Code in article 42(3), allows a person who has reached the age of 15 to be part of an employment contract; article 249(1) of the same Code specifies that "persons who are under the age of 15 shall not be employed under any circumstances". Moreover, the Individual Contracts of Employment Agreement Act, section 12(2), sets the minimum age for concluding an employment contract at 14 years. The Committee points out again that the Convention allows and encourages the raising of the minimum age but does not permit lowering of the minimum age once specified. Therefore, the Committee asks the Government to indicate the measures taken or envisaged, pursuant to its declaration under *Article 2*, to ensure that access to employment of children of 14 and 15 years of age may be allowed exceptionally, only for work that meets the criteria set out in *Article 7*.

Dominica (ratification: 1983)

The Committee notes with regret that the Government's report has not been received. It is therefore bound to repeat its previous observation on the following matters:

> The Committee noted that the Government's report indicates that there has been no amendment to the national legislation on any of the points raised in the previous comments. It recalls that the Government has been asked to give effect to several provisions of the Convention since its ratification. The Committee points out in particular that the minimum age for admission to employment or work, which was specified to be 15 years when Dominica ratified the Convention, has not been ensured in the national legislation.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future, and supply information on any progress made on the matters that have been raised and which the Committee repeated once again in a request addressed to the Government.

Tajikistan (ratification: 1993)

The Committee notes with regret that the Government's report has not been received. It is therefore bound to repeat its previous observation on the following matters:

> The Committee recalls that the minimum age of 16 years for admission to employment or work was specified under *Article 2, paragraph 1, of the Convention* as regards Tajikistan. It noted, however, that section 174 of the new Labour Code (Act of 15 May 1997) only prohibits the employment of persons under the age of 15 in contrast to the previous Code which fixed the minimum age of 16 years. The Committee recalls that the

> lowering of the existing minimum age is contrary to the principle of the Convention, which is to raise the minimum age as provided by *Articles 1 and 2(2)*. It also recalls that *Article 7* of the Convention allows, as an exception, the employment or work of persons 13 to 15 years of age on only light work which is not likely to be harmful to their health or development and not such as to prejudice their attendance at school. Other than such light work, work done by children under 16 years of age, must be prohibited. Therefore, the Committee asks the Government to indicate the measures taken or envisaged, pursuant to its declaration under *Article 2*, to ensure that access to employment of children of 15 years of age may be allowed, exceptionally, only for work meeting the criteria set out in *Article 7*.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

United Arab Emirates (ratification: 1998)

1. The Committee notes the information supplied in the Government's report in reply to its previous observation, the discussion held in the Conference Committee on the Application of Standards at the 89th Session of the International Labour Conference in June 2001, and the latest comments by the Government in reply to the communications of the ICFTU dated 21 August 2000 and 29 August 2001 concerning work by children as camel jockeys. Copies of these communications were forwarded to the Government on 15 September 2000 and on 18 October 2001, respectively, for comments it wished to make on the matters raised therein.

2. In its previous observation the Committee recalled that, by virtue of *Article 3, paragraph 1, of the Convention*, the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons must not be less than 18 years. The Committee considered that the employment of children as camel jockeys constitutes dangerous work within the meaning of this Article. It therefore requested the Government to take all the necessary measures to ensure that no child under 18 years of age is employed as a camel jockey.

3. The Committee notes the report of the discussion of the Conference Committee on the Application of Standards in June 2001. In its conclusions the Conference Committee expressed its profound concern at the information submitted to it concerning a serious violation of the Convention, and it requested the Government to prevent the use of children under 18 years as camel jockeys. In addition, the Conference Committee hoped that the Government would adopt legal and practical steps to reinforce the prohibition of children as camel jockeys, including the establishment of criminal sanctions to combat such activities. It also requested the Government to submit a report for examination by the present Committee at its meeting in November-December 2001, containing detailed information on the measures it had adopted in that respect, including strengthened criminal sanctions and the appropriate measures to enforce them. The Conference Committee further asked the Government to report on measures it had adopted, under its national policy to be formulated to combat child labour, in accordance with *Article 1* of the Convention, in order to combat trafficking in children for use as camel jockeys, and to provide information on any relevant necessary inspections and judicial decisions.

4. The Committee notes that the Government's report refers to rules promulgated by the Federation on Camel Racing, and that article 13(a) of the rules prohibits children

from being used as jockeys in camel racing. The Committee observes that article 13(a) does not prescribe any minimum age and, moreover, that the rules do not appear to be legally binding.

5. While noting that the Government states that more time is needed to verify the information and to identify responsibilities, the Committee also notes that the Government communicated a list of camel jockeys repatriated because applicable conditions had not been respected. The Committee observes that this list contains a number of children. The Committee also observes that a Government representative stated before the Conference Committee that the Government was investigating two cases of exploitation of foreign children who had been repatriated to their country of origin. The Committee requests the Government to provide detailed information on these investigations and on their outcome, as well as on any proceedings initiated against persons responsible for their presence in the country and on the sanctions applied.

6. The Committee notes the communication of the ICFTU dated 29 August 2001, in which a report of Anti-Slavery International indicates that a seven-year-old boy died on 11 April 2001 as a result of kidney damage sustained during his two and a half years spent as a camel jockey in Dubai, and that a six-year-old boy died in May 2001, after being seriously injured when he fell from a camel in Al Ain. The report supplied by the ICFTU also refers to information which allegedly shows that hundreds of boys are being trafficked for use as camel jockeys in the United Arab Emirates every year.

7. The Committee recalls that, under *Article 3, paragraph 1*, of the Convention, the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years, and that Paragraph 9 of Recommendation No. 146 states that when the minimum age is still below 18 years, immediate steps should be taken to raise it to that level.

8. The Committee therefore requests that the Government take immediate measures to protect children from employment as camel jockeys by, inter alia, adopting a provision of law which clearly establishes the age of 18 as the minimum age for employment in this occupation, and that it provide information on any measures taken or contemplated to that effect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Algeria, Antigua and Barbuda, Azerbaijan, Belarus, Bolivia, Bulgaria, Croatia, Dominica, Equatorial Guinea, Finland, Guyana, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Malaysia, Nepal, Nicaragua, Philippines, San Marino, Tajikistan, United Arab Emirates, Venezuela.*

Convention No. 139: Occupational Cancer, 1974

Egypt (ratification: 1982)

The Committee notes the information supplied by the Government in its report.

Article 1 of the Convention. The Committee notes the Government's indication that the new law amending the Labour Code has not been adopted yet and that Order No. 55 of 1983, on the protective measures to ensure safety and health in the workplace and the level of exposure to pollutants, is currently being amended, in accordance with the most recent data, information, studies and standards issued in this regard. The Committee states that the Government announces since 1986, that it will adopt a new Labour Code and, since 1988, the revision of Order No. 55 is announced in order to apply *Article 1* of the Convention. The Committee reiterates its firm hope that the indicated revisions will be finished in the near future. The Committee further requests the Government to provide information about the codes of practice or guides which are used to determine carcinogenic substances and agents to which occupational exposure shall be prohibited or made subject to authorization or control, and those to which other provisions of the Convention shall apply.

Article 2, paragraph 2. The Committee notes the Government's indication that the relevant labour standards dealing with the reduction of the number of workers exposed to chemical hazards, as well as the reduction of the duration and degree of exposure, were taken into account when some sections of the draft amendment of Order No. 55 have been elaborated. The Committee notes that the Government has been indicating in each of its reports, since 1986, that Order No. 28 of 1982, promulgated pursuant to section 134 of the Labour Code (No. 137 of 1981), providing for the adoption of ministerial orders to reduce the hours of work of certain categories of workers and in arduous work, will be amended with a view to the inclusion of certain activities involving exposure to carcinogenic substances, in the schedule of dangerous and hazardous activities. The Committee notes that according to the Government's information, the aforementioned Order has not yet been amended. The Committee, therefore, reiterates the hope that the Government will adopt the amendments to the aforementioned orders in the near future and requests it to supply copies of them once they have been adopted.

Article 3. The Committee notes with interest Order No. 36 of 1982 issued by the Minister of Manpower and Migration, on the statistical forms on dangerous accidents, injuries and diseases. The Committee notes that this Order establishes the supervision of accidents and occupational diseases for undertakings or branches by imposing the obligation on the employer to report the occurrence of accidents and occupational diseases. The Committee notes that while section 2 of the aforementioned Order merely obliges enterprises to notify the competent industrial safety office of the occurrence of accidents and occupational diseases, section 4 requires that enterprises employing more than 50 workers must submit statistics on accidents and occupational diseases to the competent industrial safety office. The Committee therefore requests the Government to indicate whether consolidated statistics are compiled by the Government, containing data on accidents and occupational diseases. If that is the case, the Government is requested to indicate if on this basis the Government establishes a system of records concerning occupational cancer-related diseases.

Article 4. The Committee notes the Government's information that Order No. 56 which, according to the Government, will amend Order No. 55, is being elaborated, taking into account the previous observation of the Committee, pointing out that the information of general character that must be supplied to the workers in application of section 117 of the Labour Code does not meet the requirements of *Article 4* of the Convention. The Committee also notes the information supplied by the Government that the new Order will be communicated to the Committee upon its adoption. The Committee recalls that *Article 4* of the Convention calls for information to be provided to the workers on the dangers involved and on the measures to be taken, in relation to the exposure to carcinogenic substances or agents. The Committee therefore requests the Government, once again, to take the necessary measures to give effect to this Article of the Convention.

Article 5. The Committee notes the Government's declaration that observance of *Article 5* shall be made with respect to the medical examinations of all workers exposed to carcinogenic substances or agents after their employment. The Committee recalls that each Member which ratifies this Convention shall take measures to ensure that workers are provided with such medical examinations or biological or other tests or investigations during the period of employment and thereafter as are necessary to evaluate their exposure and supervise their state of health in relation to the occupational hazards. The Committee therefore urges the Government to take the necessary measures to ensure that all workers exposed to carcinogenic substances or agents are provided with medical examinations or biological tests or investigations after their employment as necessary to evaluate their exposure and supervise their state of health in relation to the occupational hazards.

Part IV of the report form. The Committee requests the Government to provide detailed information on the manner in which the Convention is applied in Egypt, including extracts from inspection reports and, if such statistics are available, information concerning the number of workers covered by the legislation or other measures which give effect to the Convention, the number and nature of the contraventions reported, the number, nature and cause of cases of disease, etc.

[The Government is requested to report in detail in 2003.]

France (ratification: 1994)

The Committee notes the information provided by the Government in its reports. It notes with interest the adoption of Decree No. 2001-97 of 1 February 2001 establishing particular rules for the prevention of carcinogenic, mutagenic and toxic risks to reproduction and amending the Labour Code (Part Two: Decree in the Council of State), which extends the protection conferred by French legislation in force concerning the prevention of carcinogenic risks, regulated by section R.231-56 ff. of the Labour Code, to the rules of prevention that apply to mutagenic and toxic agents. In this regard, the Committee notes that the abovementioned Decree comprises in particular provisions which reinforce the implementation of the Convention by even exceeding the requirements of its provisions.

However, the Committee, referring to its previous comments, would like to draw the Government's attention to the following points.

Article 2, paragraph 1, of the Convention. The Committee again notes that, under section R.231-56-2 of the Labour Code, the employer is required to reduce the use of a carcinogenic agent at the workplace, in particular by replacing it, where this is technically feasible, with a substance, preparation or process which, in the conditions in which it is used, is not harmful or is less harmful to the health and safety of workers. The Committee once again asks the Government to indicate the criteria used in evaluating technical feasibility with regard to the replacement of carcinogenic substances by substances which are non-carcinogenic or less harmful and the methods applied for this purpose.

Article 2, paragraph 2. The Committee notes that in the event of exposure and where other preventive measures, such as replacement of carcinogenic substances or agents or production and use in a closed system, are not feasible, the employer is required under section R.231-56-3, paragraph 2, of the Labour Code, to reduce the level of exposure to the technically feasible minimum. The measures aimed at reducing the number of workers exposed to carcinogenic substances or agents, as well as the duration and level of exposure, therefore depend on what is "technically feasible". The Convention, for its part, requires that these be reduced to the "minimum compatible with safety". As these concepts are not necessarily equivalent, the Committee asks the Government to indicate the criteria used in evaluating "technical feasibility", how these criteria conform to the required "minimum compatible with safety", and the methods of evaluation.

Part V of the report form. The Committee notes with concern the statistics provided by the Government concerning the number of recognized cases of occupational cancer. It observes that the figure recorded for 1999 (799 cases) is practically double that of 1998 (394 cases). The Committee hopes that the Government will continue to provide information on the practical implementation of the Convention and will take the necessary measures, in the light of the abovementioned figures, to ensure extensive protection of workers against the risks arising from exposure to carcinogenic substances and agents.

Guyana (ratification: 1983)

The Committee notes the information provided with the Government's report. The Committee notes that the Occupational Safety and Health Act has been adopted in 1997 with the technical assistance of the ILO. It notes that the Act gives effect to *Articles 4 and 6(b) and (c) of the Convention.*

Moreover, the Committee notes that pursuant to section 75 of the Occupational Safety and Health Act, 1997, the Minister is empowered to issue regulations enforcing the provisions of the Act and that the ILO has retained a consultant to draft the regulations in order to make the Occupational Safety and Health Act fully operational. The Committee requests the Government to supply a copy of these Regulations as soon as they are adopted.

The Committee notes, however, that the Occupational Safety and Health Act, 1997, does not apply the Articles of the Convention mentioned hereafter on which the Committee has made comments for a certain number of years. The Committee accordingly draws the Government's attention to the following points.

Article 1, paragraphs 1 and 2, of the Convention. The Committee notes that, according to section 59 of the Occupational Safety and Health Act, the use or intended use of chemical, biological or physical agents may be prohibited, limited or restricted or made subject to conditions, if their use, in the opinion of the Occupational Safety and Health Authority, is likely to endanger the health of workers. The Government indicates however that there is no regulatory mechanism to prohibit or grant certifications specifying conditions under which reasonable exposure of carcinogenic substances can be met. The Government further indicates that the Occupational Safety and Health Department, at present, does not determine specific exposure levels for the labour force from those chemical substances that are proven to be carcinogenic. The Committee recalls that *Article 1* of the Convention requires the periodic determination of carcinogenic substances and agents to which occupational exposure shall be prohibited or made subject to authorization and control. It thus cannot be left to the discretion of the Occupational Safety and Health Authority to determine case by case whether a substance or agent endangers the workers' health. The Government is accordingly requested to indicate the measures taken or contemplated to establish a mechanism ensuring that the substances and agents to which occupational exposure is prohibited or subject to authorization and control are determined periodically.

Article 2. The Committee notes that the Occupational Safety and Health Act, 1997, does not contain provisions requiring the replacement or substitution of substances or agents by non-carcinogenic or less harmful substances and agents. In this respect, the Government indicates that regulations do not provide for maximum exposure of workers to carcinogenic substances over an eight- hour workday. The Committee therefore points out that, in accordance with this Article of the Convention, the Government must make every effort to replace carcinogenic substances and agents to which workers may be exposed in the course of their work by non-carcinogenic or less harmful substances. Moreover, the number of workers exposed as well as the duration and degree of exposure to carcinogenic substances and agents is to be reduced to the minimum compatible with safety. In view of the absence of provisions providing for the above described measures, the Committee hopes that the Regulations, which will be drafted in order to make the Occupational Safety and Health Act, 1997, operational, will contain such preventive and protective measures, in accordance with the provisions of this Article of the Convention.

Article 3. The Committee notes that the Occupational Safety and Health Act, 1997, does not set or recommend permissible exposure limits for workers or specifies other protective measures to be taken in relation to workers' exposure to carcinogenic substances or agents. The Committee therefore hopes that the Government will take the necessary steps in the near future to adopt appropriate measures to protect workers against the risks of exposure to carcinogenic substances and agents, as provided for in *Article 3* of the Convention. With regard to the establishment of an appropriate system of records of the exposure of workers at risk, the Committee notes that section 61 of the Occupational Safety and Health Act, 1997, obliges only the employer to establish and maintain an inventory of all hazardous chemicals and physical agents that are present in the workplace. The Committee draws the Government's attention to the ILO publication "Occupational cancer: prevention and control", Occupational Safety and Health Series, No. 39, indicating that the purpose of a register containing the names of exposed persons, the result of technical monitoring, special medical examinations and laboratory tests performed on these workers is to permit the competent authority "to keep a close watch on the magnitude of the problem of occupational cancer in the country, the level of risk involved in the various types of exposure, the dose-response relationship and the effectiveness of preventive action. In this way, increased knowledge of the various aspects of occupational epidemiology can be gained".

The Government is accordingly requested to indicate the measures taken or envisaged to establish an appropriate system of records in order to evaluate the different aspects of occupational cancer.

Article 5. The Committee notes that the Occupational Safety and Health Act, 1997, provides neither for medical examinations during the period of employment nor for post-employment medical examinations. The Committee therefore requests the Government to indicate the measures taken or envisaged to ensure that medical examinations or other tests or investigations are carried out during the period of employment and thereafter as are necessary to evaluate the exposure of workers and to supervise their state of health in relation to occupational hazards, in order to give full effect to *Article 5* of the Convention. In this regard, the Committee recalls the importance of both periodic health evaluations at appropriate intervals during employment to determine whether the worker's health remains compatible with his or her job assignment and to detect any evidence of ill health attributed to employment, and post-assignment health examinations to state whether the job assignments have affected workers' health, for workers may not reveal any symptoms of cancer until some time after the period of exposure and so there is a serious risk of cancer being undetected if the worker who has been exposed to carcinogenic substances or agents does not undergo medical examinations or tests after employment.

Article 6(a). The Committee notes the Government's indication that the Occupational Safety and Health Act, 1997, only applies partly the provisions of the Convention, and that in addition methods such as "voluntary compliance" are used by the Occupational Safety and Health Authority to comply with this Act. The Committee accordingly requests the Government to explain the manner in which the methods called "voluntary compliance" apply to the Convention. The Committee further hopes that the Regulations to be issued in application of section 75 of the Occupational Safety and Health Act, 1997, will be elaborated and adopted in the near future in order to give full effect to the provisions of the Convention.

[The Government is asked to report in detail in 2003.]

Uruguay (ratification: 1980)

The Committee notes the information supplied by the Government in its report.

Article 1 of the Convention. The Committee recalls that, in conformity with section 12 of Decree No. 183/982 of 29 May 1982, issuing measures intended to protect workers against the hazards caused by carcinogenic substances or agents, it is provided that the Ministry of Public Health shall be responsible for updating and revising the tables referred to in sections 2-6 which appear as annexes to the Decree. The Committee recalls that, according to *Article 1* of the Convention, each Member which ratifies the Convention shall periodically determine the carcinogenic substances and agents to which occupational exposure shall be prohibited or made subject to authorization or control. It also recalls that in making these determinations consideration shall be given to the latest information contained in the codes of practice or guides which may be established by the International Labour Office, as well as to information from other competent bodies. The Committee requests the Government to inform it whether the aforementioned tables, annexed to Decree No. 183/982, determining carcinogenic substances or agents have been revised and what sources of information were used to determine them.

Article 3. The Committee notes the Government's indications in reply to its previous comments to the effect that, to date, no supervisory system has been established in practice to ensure compliance with this Article of the Convention by the General Labour and Social Security Inspection Service (IGTSS). The Committee recalls that the Government indicated that the IGTSS intended to establish a register – in conformity with section 9 of the abovementioned Decree No. 183/982 – of communications made by enterprises which used carcinogenic substances or agents. The Committee observes from the Government's latest report that measures have not been adopted to comply with the provisions in sections 8 and 9 of Decree No. 183/982, which would result in application of *Article 3*. Furthermore, the Committee understands from the Government's statement that practical measures have not been adopted to give effect to the provisions of *Articles 2 and 4* of the Convention. The Committee therefore requests the Government to adopt the appropriate practical measures to give effect to these Articles of the Convention.

Article 5. The Committee notes the indication by the Government of the measures to ensure that workers are provided with periodic medical examinations and the indication that, to date, no rules have been laid down in regard to specific medical examinations to be carried out before exposure to carcinogenic substances. The Committee recalls that, since submission of the Government's first report in 1982, it has emphasized the lack of means to give effect to this Article of the Convention which provides that medical examinations shall be carried out after employment. The Committee notes that in one of its previous reports the Government indicated that it had designated a technical committee at the Institute of Oncology of the Ministry of Public Health to lay down a list of clinical and paraclinical checks for the workers concerned from the time of recruitment. The Government also indicated that section 31 of the Decree of 7 February 1987 laid down that medical examinations are compulsory for workers after they have left their employment. Nevertheless, in the light of the information provided by the Committee in its report, it does not appear that the aforementioned Decree has entered into force. The Committee observes that none of the provisions cited by the Government give effect to this point of the Convention, and in practice it is not applied. The Committee therefore requests the Government to take the necessary measures to give effect to this provision of the Convention.

Article 6. The Committee notes with concern the Government's information to the effect that inspection programmes to supervise application of the present Convention have not been set up. Specifically, the IGTSS has not put into practice a specific plan for supervising the enterprises which handle or use carcinogenic substances as provided in article 11 of Decree No. 183/982. The Government indicates, furthermore, that inspections are carried out only as a result of declarations by workers. The Committee recalls that *Article 6, paragraph (c)*, of the Convention lays down that each Member who ratifies the Convention shall take such steps as may be necessary to give effect to the provisions of the Convention or ensure that adequate inspection is carried out. The Committee urges the Government to indicate the provisions being adopted to ensure application of this Article of the Convention and requests that it supply information on the organization, functions and powers of the inspection services responsible for supervising application of the provisions of the Convention.

The Committee notes the Government's information to the effect that the IGTSS does not have a statistics department which processes the information contained in reports, records, investigations of occupational accidents, etc. The Committee requests the Government, in accordance with *Part IV of the report form*, to take the necessary measures to collect and communicate statistics on the number of workers protected by legislation or on other measures which give effect to the Convention, the number and nature of the contraventions reported, the number, nature and cause of cases of disease.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Denmark, Guinea, Iraq, Ireland, Nicaragua, Peru, Slovenia.*

Convention No. 140: Paid Educational Leave, 1974

Venezuela (ratification: 1983)

1. With reference to a direct request made at its 64th Session (February-March 1995), the Committee notes that, according to the Government's brief report received in September 2000, new regulations have been issued under the Organic Labour Act which repeal the regulations of 1973, with the exception of the provisions respecting recipients of study grants. The Committee notes that section 267(a) of the new Regulations of 1999 repeal the Regulations issued under the Labour Act of 1973, with the exception of Title IV (respecting special labour schemes). Consequently, the Committee would be grateful if the Government, taking into consideration the most recent legislative reforms, would indicate the current provisions which provide for the granting of paid educational leave as defined in the Convention.

2. The Government also indicates in its report that it has taken note of the question raised by the Committee concerning the extension of the age at which workers are eligible to receive study grants to over 30 years. The Committee refers to its previous comment and once again requests the Government to take measures within the context of the policy to promote the granting of paid educational leave envisaged in *Articles 2 and 6 of the Convention*, to extend the application of these study grants to workers over 30 years of age.

[The Government is asked to report in detail in 2002.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Afghanistan, Brazil, France, Guinea, Guyana, Spain, United Republic of Tanzania.*

Convention No. 141: Rural Workers' Organisations, 1975

A request regarding certain points is being addressed directly to *Burkina Faso.*

Convention No. 142: Human Resources Development, 1975

Turkey (ratification: 1993)

The Committee notes the information contained in the Government's report, received in September 2001, which included comments supplied by the Confederation of Progressive Trade Unions (DISK), the Confederation of Turkish Trade Unions (TÜRK-

İŞ) and the Turkish Confederation of Employers' Associations (TISK) in Turkish. The Committee will examine the Government's report and comments of organizations during its upcoming session.

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In addition, a request regarding certain points is being addressed directly to *Slovakia*.

Convention No. 143: Migrant Workers (Supplementary Provisions), 1975

Venezuela (ratification: 1983)

The Committee notes the information supplied in the Government's report and acknowledges the statistical data provided by the Government. It regrets, however, that the Government has found it impossible to adopt, in consultation with employers' and workers' organizations, any measure to suppress discriminatory treatment between foreign and national workers and to give effect to the principle of equality in the exercise of the right of association between migrant and national workers. The Committee therefore notes that no action was taken on the basis of its previous comments following up on the conclusions and recommendations adopted by the Governing Body in the representation made by the International Organization of Employees (IOC) and the Venezuelan Federation of Chambers and Associations of Commerce and Production (FEDECAMRAS) in May 1993. The Committee repeats is previous observation on the following points:

> *Article 10 of the Convention.* 1. With reference to the recommendations adopted by the Governing Body inviting the Government to take appropriate measures to abrogate or amend the provisions of sections 27, 28, 30 and 317 of the Organic Labour Act of 1990 in the light of the principle of equality of opportunity and treatment between national workers and migrant workers established by *Article 10* of the Convention, the Government recognizes that by setting a 10 per cent limit on foreign workers in the enterprise and a 20 per cent limit on the overall wages of such workers in the enterprise, sections 27 and 317 of the above Act in a certain manner violate the principle of equality of treatment between foreign and national workers. The Government states that it is its responsibility, by virtue of article 84 of the Constitution, which does not establish discrimination between foreigners and nationals of Venezuela, to guarantee nationals of Venezuela employment "which provides them with a worthy and decent living".
>
> The Committee recalls the comments that it made previously on the analogous provisions of the Labour Act of 1983. Furthermore, it recalls that, when requested on two occasions by the Government to give an opinion on the draft organic labour act, the ILO suggested the elimination of these provisions on the basis, among others, of the above comments of the supervisory bodies. It requests the Government to indicate the measures which have been taken, in consultation with employers' and workers' organizations, to give effect to the principle of equality of treatment between migrant workers and national workers.
>
> 2. With regard to section 404 of the Organic Labour Act of 1990, the Government also recognizes the contradiction between the content of the above section and the principle of equality of treatment between foreign and national workers. According to the

Government, the problem lies in the fact that the requirement for prior authorization for foreign workers to hold trade union office goes back to the Labour Act of 1936.

The Committee recalls that the policy designed to guarantee equality of opportunity and treatment set out in *Article 10* of the Convention covers trade union rights for persons, who, as migrant workers or as members of their families, are lawfully within the territory of the State which has ratified the Convention. It requests the Government to indicate the measures which have been taken, in consultation with employers' and workers' organizations, to give effect to the principle of equality in the exercise of the right of association between migrant and national workers.

Article 12(g). 3. With reference to section 30 of the Organic Labour Act of 1990, the Government emphasizes that, in the event of the recruitment of foreign workers, this section requires preference to be given to "those whose children were born on Venezuelan territory, who have a Venezuelan spouse or a residence in the country or those with the longest period of residence in the country". This provision therefore establishes criteria which have to be taken into consideration in the event of the conclusion of a contract of employment with foreign workers. In a case where two applicants for a job are equally suitable, the employer has to select the applicant who responds to criteria proving the existence of a closer connection with the country. The Government hopes, in the context of the general regulations being prepared under the Organic Labour Act, to reduce the discriminatory effects of the above section, possibly by placing emphasis on other criteria, such as the family responsibilities of the applicant for employment.

The Committee of Experts recalls that the abovementioned Committee considered that this provision is not in accordance with the principle of equality of opportunity and treatment with regard to working conditions for all migrant workers who exercise the same activity, whatever might be the particular conditions of their employment, in accordance with *Article 12(g)* of the Convention.

The Committee hopes that the Government will be in a position to indicate the measures which have been taken to bring the provisions on recruitment into conformity with the principle of equality of opportunity and treatment in employment established by *Articles 10 and 12(g)* of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Benin, Burkina Faso, Cyprus, Italy, Norway, Portugal, Slovenia, Sweden, Uganda.*

Convention No. 144: Tripartite Consultation (International Labour Standards), 1976

Bahamas (ratification: 1979)

Further to its previous observation, the Committee notes with interest that the ratifications of Conventions Nos. 87, 100, 103, 111, 138 and 147 were registered in 2001.

Article 2 of the Convention. The Committee notes that effective consultations are facilitated through the Joint Tripartite Advisory Committee and that, in addition, frequent consultations between workers' and employers' representatives ensure dialogue and participation. It requests the Government to provide particulars on the nature and form of procedures within the Joint Tripartite Advisory Committee.

Article 5. The Committee notes that according to the Government's report, consultations are held frequently to review the labour legislation. It requests the Government to supply full and detailed information on the consultations held during the period covered by the next report on each of the questions set forth in *paragraph 1*. It wishes to recall in this connection that some of the subjects listed (replies to questionnaires (a), submissions to the competent authorities (b), reports to be made to the International Labour Office (d)) involve annual consultation, while others (re-examination of unratified Conventions and Recommendations (c), proposals for the denunciation of ratified Conventions (e)) require less frequent examination. The Government is also requested to provide details on the nature of any reports and recommendations which arise therefrom.

Article 6. The Committee notes that no annual report is produced on the working of the procedures. It hopes that the Government will consult with the representative organizations on the need to produce an annual report on the working of the consultation procedures, as the Government has expressed in its previous reports, and that it will be able to communicate in its next report information on the results of such consultation.

Part V of the report form. Please add a general appreciation of the manner in which the Convention is applied in your country, giving, for example, extracts from official reports and any other information bearing on the practical application of the Convention.

Côte d'Ivoire (ratification: 1987)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the Government's report covering the period ending September 1999. In its previous comments, the Committee had noted the Government's intention to make the Tripartite Committee on ILO Matters fully operational. However, it notes that the Tripartite Committee did not meet during the period covered by the report and that consultations on matters relating to the ILO were held in the Advisory Labour Commission. It trusts that the Government will take all the necessary measures as soon as possible to give effect to the provisions of the Convention, as it has expressed the intention of doing, and that in its next report it will be in a position to provide more complete and detailed information on the consultations held on the matters covered by *Article 5, paragraph 1, of the Convention.*

Gabon (ratification: 1988)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> The Committee notes the Government's report and the information that it contains in reply to its previous direct request. It also notes the comments made by the Free Federation of Energy, Mining and Allied Enterprises (FLEEMA) and the Gabonese Confederation of Free Trade Unions (CGSL).
>
> The Committee notes the information provided in the Government's report on the consultations held on each of the points set out in *Article 5, paragraph 1, of the Convention.*

It notes in particular that, in accordance with *point (b)* of the above paragraph, the Home Work Convention, 1996 (No. 177), as well as various instruments adopted at the last Maritime Session of the International Labour Conference, have been submitted to the competent authority or authorities. Noting that the FLEEMA, in its comments, alleges that the Safety and Health in Mines Convention, 1995 (No. 176), and Recommendation No. 183 have not been submitted to the competent authority, the Committee wishes to recall on this point that it stated in its 1982 General Survey (paragraph 109) that the Convention goes beyond the obligation to submit stipulated in article 19 of the ILO Constitution and requests the Government to consult the representative organizations before finalizing the proposals to be submitted to the competent authority or authorities in relation to the Conventions and Recommendations which have to be submitted to them. In the light of these explanations, the Government is requested to make the comments that it considers appropriate on the observations of the FLEEMA.

Finally, with regard to the application of *Article 6*, the Committee notes the Government's reply to the observation made by the Gabonese Confederation of Free Trade Unions alleging the absence of consultations on the appropriateness of issuing an annual report on the working of the procedures provided for in the Convention. The Government states that budgetary restrictions have prevented the establishment of a tripartite consultation body for the purposes set out in the Convention, which has been the major contributing factor to this situation. The Committee requests it to provide information in future reports on any development relating to this subject and hopes that such consultations will be held in the near future.

Indonesia (ratification: 1990)

1. *Articles 1 and 3 of the Convention.* In its latest report, the Government indicates that the main problem that Indonesia has to address related to the Convention is how to accommodate the newly established unions in the tripartite bodies at different levels and especially at the national level. There are a growing number of trade unions, and at least 50 of them claim to be representing the national federation of unions. A number of meetings, including seminars and workshops, were held in order to find a solution on how to set up a mechanism that would satisfy all parties. A workshop held on April 2001 established the requirements that representative organizations have to fill in order to be represented at the different levels. The Committee notes that, according to the report, workers' organizations are still not able to elect representatives among themselves in spite of the efforts made by the Government to provide the opportunity for workers' organizations to discuss the problem of representation. It notes the Government's request for assistance from the Office to help it find a solution to the current problem, which is considered to be a priority and a strategic issue for the Government, and hopes that the technical assistance provided by the Office will allow the Government to progress in this matter. It recalls that the requirement of representation on an equal footing of workers' and employers' organizations, set out in *Article 3, paragraph 2*, of the Convention, is intended rather to ensure substantially equal representation of the respective interests of employers and workers and should not be interpreted as imposing strict numerical equality.

2. *Article 5, paragraph 1.* In relation to its previous comments the Committee notes that the latest report does not contain the information requested since 1993 on the consultations held on the matters covered by *Article 5, paragraph 1*, of the Convention. It once again asks the Government to describe in detail in its next report the

consultations held on the matters covered by *Article 5, paragraph 1,* and to indicate the nature of all the resulting reports or recommendations.

Pakistan (ratification: 1994)

1. Further to its 1999 observation, the Committee notes that draft labour laws were prepared on the basis of the Commission on Consolidation of Labours Laws' recommendations which held tripartite consultations. The Government also states that it will continue to promote the tripartite consultation process in future as well and will involve workers' and employers' organizations in the decision- making process. The Committee would appreciate receiving information on any other tripartite consultations taking place within the revision of the labour legislation and asks the Government to inform it, where appropriate, of any consultation undertaken on the adoption of a specific tripartite procedure *(Article 2 of the Convention).*

2. Please also provide information on the consultations undertaken concerning the questions covered in *Article 5, paragraph 1,* and provide details, where appropriate, on all reports and recommendations arising therefrom.

Sao Tome and Principe (ratification: 1992)

The Committee notes that the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its 1997 direct request, which read as follows:

> The Committee notes the Government's first report on the application of the Convention. It notes the Bill creating the National Council for Social Consensus appended to the report and trusts that in its next report the Government will be in a position to inform it in its next report that the Bill has been enacted. The Committee would be grateful if the Government would provide additional information on the following points:
>
> *Article 4, paragraph 2, of the Convention.* The Government is asked to provide information, if appropriate, on any arrangements taken or envisaged for the financing of any necessary training of participants on the procedures provided for in the Convention.
>
> *Article 5.* The Committee asks the Government to provide particulars of the consultations held on each of the matters set out in *paragraph 1* including information on their frequency and to indicate the nature of all reports or recommendations made as a result of the consultation.
>
> *Article 6.* The Committee asks the Government to send a copy of any reports issued on the working of the procedures provided for in the Convention.

Sierra Leone (ratification: 1985)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> The Committee notes that the Joint Consultative Committee has met several times to debate the new labour legislation. It wishes to recall that the tripartite consultations referred to in the Convention are essentially designed to promote the implementation of international labour standards and concern, in particular, the matters defined and set out in *Article 5, paragraph 1, of the Convention.* The Committee therefore requests the Government to

supply full and detailed information on any tripartite consultations held, including their frequency, on the subject of:

(a) government replies to questionnaires concerning items on the agenda of the International Labour Conference and government comments on proposed texts to be discussed by the Conference;

(b) the proposals to be made to the competent authority or authorities in connection with the submission of Conventions and Recommendations pursuant to article 19 of the Constitution of the International Labour Organization;

(c) the re-examination at appropriate intervals of unratified Conventions and Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and ratification as appropriate;

(d) questions arising out of reports to be made to the International Labour Office under article 22 of the Constitution of the International Labour Organization;

(e) proposals for the denunciation of ratified Conventions.

Spain (ratification: 1984)

The Committee notes the Government's report, which describes the written communications made to the representative organizations on the matters covered by the Convention. With reference to the previous observation, the Government states that many practical and ad hoc meetings have been held on issues of an international nature, particularly before the Council of Ministers of the European Union and in the context of technical cooperation with Latin America. The Government indicates its readiness to look into the possibility of a schedule of periodic meetings with general objectives, which could be in addition to written communications, for all the representative organizations of employers and workers in relation to ILO matters. The Committee trusts that the Government will continue providing information in its reports on developments relating to the consultation procedures required by *Article 2* as it relates to the issues addressed in *Article 5*.

Venezuela (ratification: 1983)

The Committee notes a report from the Government, received in September 2001, in which it is merely indicated that copies are attached of the communications sent to the representative organizations of employers and workers. The Committee refers to its direct request of 1999 and would be grateful if the Government would provide detailed information on the manner in which effect is given to *Article 5 of the Convention*, not only with regard to questions arising out of reports to be made on the application of ratified Conventions *(5(1)(d))*, but also in relation to the other matters enumerated in *paragraph 1*. The Committee once again requests the Government to provide copies of written communications between the Ministry of Labour and the representative organizations in order to enable it to assess the manner in which the Convention is applied in practice. In this respect, the Committee recalls that the obligation to consult the representative organizations on questions arising out of reports to be made on the application of ratified Conventions, under *Article 5, paragraph 1(d)*, of the Convention, has to be distinguished from the obligation to provide reports under article 23, paragraph 2, of the Constitution, since the consultations required by the Convention must be held during the process of preparing the reports. Where consultations are held in written form, the Government should transmit a draft of the report to the representative organizations in order to obtain their opinions before finalizing the report. Please indicate the progress achieved in this respect.

[The Government is asked to report in detail in 2002.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Albania, Argentina, Azerbaijan, Barbados, Belarus, Botswana, Brazil, Bulgaria, Burundi, Chad, Costa Rica, Dominican Republic, Ecuador, Egypt, El Salvador, France, Greece, Grenada, Guatemala, Guinea, Guyana, Iraq, Jamaica, Latvia, Lesotho, Lithuania, Madagascar, Malawi, Mauritius, Mozambique, Nepal, New Zealand, Nicaragua, Nigeria, Poland, Portugal, Romania, Slovakia, Sri Lanka, Suriname, Swaziland, Syrian Arab Republic, United Republic of Tanzania, Togo, Turkey, Uganda, Ukraine, United Kingdom, Zambia, Zimbabwe.*

Convention No. 145: Continuity of Employment (Seafarers), 1976

Finland (ratification: 1978)

The Committee notes the information supplied by the Government in its report for the period 1 July 1996 to 31 May 2001. It also notes the comments supplied by the Central Organization of Finnish Trade Unions (SAK) that one of its members, the Finnish Seamen's Union, considers that the Government is in violation of the Convention because the work permit procedure stipulated in the Aliens' Act (378/1991) does not apply to foreigners employed on ships registered in the list of cargo ships in accordance with the Act on the Register of Cargo Ships in Foreign Transport (1707/91). The Finnish Seamen's Union alleges that some vessels entered in the cargo ship register have bypassed the maritime recruiting system in recruiting foreign seamen to replace Finnish crews. It is further alleged that the foreign seafarers have been forbidden to talk to the Finnish Seamen's Union and apparently to join it. The result is higher unemployment among Finnish seafarers. The Committee notes this information and requests the Government to provide further information on the national policy established to encourage all concerned to provide continuous or regular employment for qualified seafarers, as specified in *Article 2, paragraph 1, of the Convention.* The Committee also would appreciate receiving further information in the next report on the manner in which the Convention is applied in practice, as requested in *Part V of the report form* adopted by the Governing Body.

New Zealand (ratification: 1980)

The Committee notes the information contained in the Government's report for the period 1 July 1998 to 31 May 2001.

1. *Article 2 of the Convention.* Further to previous comments, the Government states that continuous or regular employment for seafarers is an issue for individual or collective bargaining, and that the Employment Relations Act 2000 establishes a bargaining framework. The Government estimates that there are approximately 900 seafarers in New Zealand. The Confederation of Trade Unions (CTU) states that a large number of seafarers are employed on fixed term contracts, as casual workers or as

temporary relievers, without continuous employment. Although some seafarers are covered by "contingent liability" provisions, which count previous service with other employers in the industry towards current length of service, an increasing proportion of seafarers are not covered. The Committee requests further information on what provisions exist in collective agreements concerning continuous or regular employment for seafarers, the number of seafarers covered by such provisions, and whether periods of employment are sufficient to enable a seafarer to qualify for unemployment benefit or assistance during periods of unemployment.

In addition the Committee again reiterates that compliance with the Convention requires that there be a national policy with respect to encouraging, inter alia, provision of continuous or regular employment for qualified seafarers. The promotion by the Government of collective agreements in a general sense, does not fulfil this requirement as these agreements are based solely on the will and intention of the workers who negotiate them.

2. The Committee also notes the Government's statement that continuity of employment following the sale or transfer of a business or by contracting out work is currently being considered by a tripartite Ministerial Advisory Committee. Please provide further information when available on the outcome of these deliberations.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Costa Rica, Cuba, Egypt, France, Hungary, Morocco, Netherlands, Norway, Poland.*

Information supplied by *Portugal* in answer to a direct request has been noted by the Committee.

Convention No. 146: Seafarers' Annual Leave with Pay, 1976

A request regarding certain points is being addressed directly to *Cameroon.*

Convention No. 147: Merchant Shipping (Minimum Standards), 1976

Requests regarding certain points are being addressed directly to the following States: *Cyprus, Egypt, Ireland, Liberia, Luxembourg, Sweden.*

Convention No. 148: Working Environment (Air Pollution, Noise and Vibration), 1977

Costa Rica (ratification: 1981)

The Committee notes the information contained in the Government's report. The Committee notes that the Government has once again not replied to its request for information concerning the observations made by the Association of Customs Officers (ASEPA) relating to the application of this Convention. The Committee recalls that it noted the Government's comments regarding both national and international provisions respecting conditions of work, including several provisions of this Convention. On that occasion, the Committee requested the Government to provide information on the measures adopted to prevent and limit occupational hazards due to air pollution and noise with a view to protecting persons working as customs handlers and customs operations technicians (categories I and II), who may be exposed to dust, humidity, noise and toxic gases in the workplace. The Committee is bound to reiterate its request and hopes that the Government will indicate the measures adopted and will provide information in its next report on the results achieved in this respect.

Articles 8, paragraphs 1 and 3, and 9 of the Convention. The Committee recalls that it noted the information provided by the Government on the provisions contained in the Regulations to control noise and vibrations, Decree No. 10541-TSS, of 14 September 1979, defining the risks of exposure to air pollution, noise and vibration at the workplace. The Committee notes the Government's statement in its last report that the exposure limits in relation to air pollution have been fixed on the basis of the so-called time-weighted average (TWA) concentration adopted by the American Conference of Governmental Industrial Hygienists for a working day of eight hours and a working week of 48 hours. The Committee notes that the Government specifies that the limits set and the investigation criteria under which the TWAs were determined are adjusted annually by the above international organization. However, the Committee wishes to reiterate its request for the Government to indicate the frequency with which exposure limits to air pollution, noise and vibration are reviewed at the national level.

Article 11, paragraphs 1 and 3. The Committee regrets to note that, in reply to its request, the Government refers once again to Decree No. 18323. As indicated previously, the above Decree provides for the medical examination of workers exposed to pesticides. The Committee recalls that *Article 11* of the Convention provides that there shall be supervision at suitable intervals, on conditions and in circumstances determined by the competent authority, of the health of workers exposed or liable to be exposed to occupational hazards due to air pollution, noise or vibration in the working environment. Such supervision shall include a pre-assignment medical examination and periodical examinations, as determined by the competent authority. The supervision provided for in the above paragraph of this Article shall be free of cost to the worker concerned. The Committee therefore urges the Government to take the necessary measures to give effect to the provisions of this Article of the Convention, which is not limited to covering workers exposed to pesticides.

Article 12. The Committee recalls that it requested the Government to provide information on any conditions prescribed by the regulations respecting the monitoring and registration of toxic products or substances and to indicate the manner in which hazardous substances, products or materials, and procedures, machinery and materials are monitored and used, and on any prohibitions prescribed by the above authority, as well as texts (administrative and other decisions) which specify toxic products and substances, and hazardous objects and products. In its report, the Government refers to Decree No. 21406-S of 22 June 1992. However, a copy of the above Decree was not supplied. The Committee requests the Government to provide a copy of the above Decree so that it can be examined by the Committee.

The Committee would be grateful if the Government would provide information on the application of the Convention in practice, including for example extracts of reports of inspection services and statistics, where they exist, of the number of workers covered by the laws and regulations giving effect to the Convention, etc.

Ecuador (ratification: 1978)

1. With reference to its previous comments, the Committee recalls that it noted the observations made by the Latin American Central of Workers (CLAT) regarding the extension of the working day for operators and supervisors of the national telephone service, in accordance with Ministerial Agreement No. 709 of 31 December 1993, which resulted in risks involving the reduction in hearing, loss of sight and irreversible damage to the central nervous system due to permanent exposure to noise and harmful gas emissions. On that occasion, the Committee also noted the measures taken by the Government, and particularly Ministerial Agreement No. 136 of 23 February 1999. The Committee requested the Government to continue supplying information on the application in practice of these measures intended to afford protection to workers and supervisors in the telephone services against occupational hazards arising out of environmental noise and pollution. The Committee regrets to note that the Government has not complied with this request and urges it to provide the requested information in its next report.

2. The Committee also notes the communication, dated 3 July 2000, from the National Union of Workers of the Telephone, Annotation and Revision Services of the Ecuadorian Telecommunications Institute (IETEL) "17 May", affiliated to the Latin American Central of Workers (CLAT) and the Ecuadorian Confederation of United Class Organizations of Workers (CEDOC), indicating that the telephone workers of the enterprises EMETEL-ECUADOR, EMETEL S.A., ANDINATEL S.A. and PACIFICTEL S.A. (formerly IETEL) are exposed to grave occupational hazards in the performance of their work. In this respect, the above trade union indicates that the workers can suffer the loss of their hearing capacity as a result of their permanent exposure to noise due to working for more than the statutory hours of work using headphones and audio-phones, as well as the loss of visual capacity due to their exposure to computer screens. It adds that, due to the excessive time spent exposed to the above factors, and particularly the inhalation by workers of the harmful gases given off by the maintenance batteries of the telephone system, certain workers have died of cerebral circulatory accidents and fluid in the lungs. The above trade union also indicates that ordinary working days should be applied to professional telephone operators and supervisors in Ecuador, as set out in section 4(a) of the Agreement of the Ministry of Labour and Human Resources No. 136 of 23 February 1999 (published in the *Registro Oficial* No. 152, of 19 March 1999).

3. In its comments, the Government states that communications enterprises use electronic equipment which prevent the operators being exposed to the occupational health problems referred to by the trade union. It indicates in this respect that the former audio-phones and manual connections are no longer used, as the processes are now computerized through optic fibre. As a consequence, the manual equipment which could emit toxic gases or produce vibrations or frequencies harmful to human beings are no longer used.

4. Leaving aside the Government's comment to the effect that the trade union "17 May" of IETEL has no members, is not representative and has no connection with the ANDINATEL enterprise, in which the events commented upon by the worker's organization allegedly take place, the Committee wishes to reiterate its request to the Government to provide information on the application in practice of measures, such as

those setting the normal working day for telephone operators and supervisors at four and a half hours a day, as envisaged in Agreement No. 709, of 31 December 1993, and confirmed by Agreement No. 136, of 23 February 1999, to protect the abovementioned workers against occupational hazards due to noise and air pollution.

5. In view of the absence of information related to its previous comments, the Committee is once again addressing a request directly to the Government concerning the application of the Convention.

[The Government is asked to report in detail in 2002.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Ecuador, Kyrgyzstan, Slovakia, Slovenia.*

Convention No. 149: Nursing Personnel, 1977

Poland (ratification: 1980)

The Committee notes the information provided in the Government's report in reply to the comments made by the Trade Union of Medical Analysis Technicians and the National Trade Union of Nurses and Midwives of Poland alleging the non-application of Convention No. 149, which were transmitted to the Government on 24 July and 11 September 2000, respectively. Following these comments, the Government transmitted to the ILO in January 2001, by way of response, a copy of the Self-Government Act of the Provinces of 5 June 1998, which did not bear any relation in principle to the matters raised by the above organizations. Later, in September 2001, the Government provided a report containing certain elements of a reply to the above comments. The Committee recalls that, in addition to its observation of 2000, it also commented on the application of the Convention in 1999. The Committee had then requested information from the Government relating, among other matters, to *Article 2, paragraph 2(b)*, and *Articles 3 and 7 of the Convention.* Following the receipt of the Government's last report, the Committee wishes to draw the Government's attention to the following points.

1. The Committee notes the Government's information concerning the introduction in 1999 of a new model of health-care functioning. From that year, successive measures have been adopted to improve conditions of employment and develop nursing-care resources, based on the following: the transformation of the system for the education of nurses and midwives, according to the European standards that are in force; the creation of new jobs through the restructuring of health care; the development of the conditions to acquire new professional qualifications; and the improvement of conditions of work.

2. The Committee notes in particular the adoption on 3 February 2001 by the Sejm of the Republic of Poland of the Act to amend the Act respecting the professions of nurses and midwives (*Dziennik Ustaw* No. 16, text No. 169), adapting Polish legislation respecting the training and practice of the nursing profession to European Council directives, and the Programme of Transformation of Nurses' and Midwives' Education for the years 2001-05, developed under the above Act. The Committee notes that this Programme includes the introduction of professional university studies (BA) for nurses

and midwives in 2001-03 in around 30 universities in Poland. The Committee requests the Government to inform the ILO of the practical measures taken under the above Act and Programme. The Committee also notes that a programme of restructuring in the field of health care has been undertaken since 1999. It notes that in 2001-02, this programme has been implemented in accordance with the instructions of the Cabinet dated 28 December 2000 (*Dziennik Ustaw* No. 122, text No. 1326 as subsequently amended), issued under the Act of 12 May 2000 respecting the principles of supporting regional development (*Dziennik Ustaw* No. 48, text No. 550 as subsequently amended), copies of which have been provided to the ILO and will be examined once they have been translated. The Committee requests the Government to provide information on the application in practice of this programme and, in particular, improvements that have been made as a result in the provision of health care. The Committee also recalls that, in accordance with *Article 2, paragraph 3*, of the Convention, when adopting and applying a policy concerning nursing services and nursing personnel, the Government is bound to consult the employers' and workers' organizations concerned. In view of the comments made by the Trade Union of Medical Analysis Technicians and the National Trade Union of Nurses and Midwives of Poland, the Committee requests the Government to indicate whether the consultations envisaged by this provision of the Convention were held and, if not, to take the necessary measures to ensure that the organizations concerned are consulted in future.

3. The Committee notes that, in reply to the comments of the above workers' organizations alleging poor working conditions of nursing personnel, the Government refers to the general legislation (the Civil Code and the Labour Code) and to certain specific provisions such as the Act on health-care units of 30 August 1991 (*Dziennik Ustaw* No. 91, text No. 408 as subsequently amended) and the Instructions of the Minister of Health and Social Protection of 13 July 1998 on contracting health services (*Dziennik Ustaw* No. 93, text No. 592). The Committee notes that this information does not enable it to assess the quality of the conditions of work of the personnel concerned, which are distinct from the laws and regulations existing on this subject. It therefore requests the Government to indicate whether a policy to provide nursing personnel with satisfactory employment and working conditions, including career prospects and adequate remuneration, which are likely to attract persons to the profession and retain them in it so that they can provide nursing care of the quantity and quality that are necessary to provide patients with the highest possible level of health care, has been adopted and applied effectively, in accordance with *Article 2, paragraphs 1 and 2*, of the Convention.

4. The Committee notes the information that independent public health-care units no longer have the status of (state) budget units and that, in accordance with section 77-2(1) of the Labour Code, the terms of wage settlements are those set out in the salary regulations until the employees are covered by the enterprise or sectoral collective agreement. The Committee notes that, according to the Government, there are no grounds for determining the salary rules for employees of independent public health-care units in the form of instructions or sectoral collective agreements. It notes that it is only in the case of public health services organized as budget units that the Minister of Health can, under the terms of section 40(2) of the Act of 30 August 1991, determine the salary rules for the employees. The Committee draws the Government's attention to the fact that it has not provided any information in reply to the allegations made by the

Trade Union of Medical Analysis Technicians and the National Trade Union of Nurses and Midwives of Poland to the effect that the wage scales are not adapted to the work performed and that the wages are declining. It therefore requests the Government to provide detailed information in its next report on these points.

5. The Committee notes that, with regard to occupational safety and health, the Government refers to sections 94 and 210 of the Labour Code which provide, inter alia, that the employer is obliged to ensure safe and healthy working conditions and that employees have the right to withdraw from work, while retaining the right to remuneration, in the event of physical or mental danger to themselves or others. Recalling that the National Trade Union of Nurses and Midwives of Poland alleged in its comments the non-compliance of employers with the basic principles of safety and health and the absence of legislative provisions on this subject, the Committee requests the Government to indicate whether it has taken additional measures to ensure the effective application of the current provisions.

6. The Committee notes that, with regard to conditions of work, the Government indicates that Poland is currently in a special situation and that the implementation of the first phase of the transformation of the health-care system is causing anxiety among certain occupational organizations. It notes that this restructuring often requires mass redundancies and changes in their jobs and the necessity for them to accept to change their qualifications. The Committee notes that, in the view of the Government, such action does not prove that the Government does not respect the employment and social rights of the staff. The Government indicates that, on the contrary, in its efforts to provide the highest level of health care, which also concerns the level of nursing services, it has recently taken several decisions to achieve these objectives. The Committee notes the introduction in 1999 of the so-called "group nursing practice" as a different form of performing the nurse's and midwife's profession. It requests the Government to provide additional information on such practice. Furthermore, it requests the Government to indicate whether the employers' and workers' organizations concerned were consulted in this respect. The Committee notes the signature by the Minister of Health on 21 December 1999 of the Directive determining the minimum standards of employment of nurses and midwives in health-care units and requests the Government to provide a copy of the above Directive to the ILO. While noting that a Bill was submitted to the Sejm for the granting of preferential loans to employees who have lost their jobs during the restructuring process, the Committee requests the Government to provide any practical information concerning improvements in the conditions of work of nursing personnel.

7. The Committee notes the adoption of the Act of 22 December 1999 amending the Act on health-care units which is intended, according to the Government, to maintain the rights granted by the Cabinet instructions of 27 December 1974, which were repealed on 30 September 1999. In addition, it notes the information that the above Act, which entered into force on 1 October 1999, maintains the continuity of the rights of employees in public health-care units in relation to working time, as well as of those employed in independent public health-care units, and in terms of the long-service benefit and retirement or pension benefits due to incapacity for work. The Committee also notes the adoption of the Act of 1 March 2001 amending the Act issuing the Labour Code (*Dziennik Ustaw* No. 28, text No. 301), which introduced the five-day working week. The Government adds that the regulations respecting hours of work, shift-work bonuses,

the continuous provision of health care and supplements for employees in emergency ambulance services, also cover employees in the private sector. For all these reasons, the Government considers that the comments of the National Trade Union of Nurses and Midwives of Poland concerning the loss of their acquired rights are difficult to accept. The Committee notes these comments. The Committee hopes to be able to examine the legal texts provided by the Government once they have been translated. In the meantime, it asks the Government to take the necessary measures to ensure compliance with the provisions of the Convention, and accordingly to ensure the rights of nursing personnel in the country.

The Committee is raising other points in a request addressed directly to the Government.

[The Government is asked to report in detail in 2003.]

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In addition, requests regarding certain points are being addressed directly to the following States: *Azerbaijan, Ghana, Guinea, Jamaica, Kenya, Kyrgyzstan, Latvia, Malawi, Malta, Philippines, Poland, Portugal, Seychelles, Sweden, United Republic of Tanzania, Uruguay.*

Convention No. 150: Labour Administration, 1978

Requests regarding certain points are being addressed directly to the following States: *China* (Hong Kong Special Administrative Region), *Democratic Republic of the Congo, Gabon.*

Convention No. 151: Labour Relations (Public Service), 1978

Azerbaijan (ratification: 1993)

The Committee notes from the Government's report that the Act respecting the public service has been adopted by Parliament but that it is undergoing internal approval procedures.

The Committee hopes that all internal procedures will be completed in the very near future, and requests the Government to provide a copy of the said Act as soon as possible.

Uruguay (ratification: 1989)

The Committee notes the Government's report.

In its previous observation the Committee had asked the Government to examine the possibility of modifying the composition of the Permanent Industrial Relations Committee (CPRL), which appeared to be unsatisfactory due to an imbalance between the representatives of the authorities and of the most representative trade union organizations; the Committee also referred to the competence of the Permanent Industrial Relations Committee (CPRL) which, according to section 739 of Act No. 16736 included "advising on conditions of employment and other matters covered by international labour Conventions" but, in practice, only discharged mediation functions which, in the opinion of the Committee of Experts, was unsatisfactory.

The Committee also recalls that the PIT-CNT forwarded observations on the application of the Convention. Specifically, the comments point out the lack of effective functioning of the CPRL which it believes is the only body existing to provide bargaining machinery with a possibility of impacting on the determination of employment conditions in the public sector and that employment conditions in the sector are determined through the Budget Act, without participation of the workers.

The Committee observes that the Government states that the composition and mediation form of the CPRL have not been altered. The Committee requests the Government to take measures to modify the composition of the CPRL and its functions so that organizations of public officials can participate more appropriately in the determination of employment conditions.

The Committee notes that, according to the Government, in various areas of the public sector (autonomous bodies, decentralized services, etc.) collective bargaining has been encouraged and that collective agreements exist in many enterprises. The Committee requests the Government to supply a list of collective agreements or Conventions concluded in the public administration sphere, indicating the number of officials covered.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Albania, Belarus, Botswana, Latvia, Seychelles, Turkey.*

Information supplied by *Ghana* in answer to a direct request has been noted by the Committee.

Convention No. 152: Occupational Safety and Health (Dock Work), 1979

Ecuador (ratification: 1988)

The Committee notes the information which the Government communicated in its report.

The Committee notes with regret that, once again, the Government states that the Manual on Safety Standards and the Prevention of Risks for Dockworkers has not been amended and revision thereof is being considered in the context of the Inter-Agency Committee on Safety and Health. The Government states that the comments of the Committee will be taken into consideration in this context. The Committee recalls that the Government previously stated that it would be the Directorate of the Merchant Navy which would revise the regulations for the purpose of a complete revision of the abovementioned manual. Taking account of the fact that there has been a change in the institution to which the task of revising the manual has been assigned, the Committee regrets that the necessary action to avoid further delay to revision of the manual has not been taken and reiterates its hope that the Government will be able to eliminate all the delays which have prevented revision of the instrument which should give effect to the provisions of the Convention.

The Committee requests that the Government, when undertaking the abovementioned examination of the manual, take into account the detailed comments contained in a request which it is addressing directly to the Government.

[The Government is asked to report in detail in 2003.]

Finland (ratification: 1981)

1. Further to its previous observation based on the comments made by the Central Organization of Finnish Trade Unions (SAK), the Committee notes the brief information contained in the Government's report indicating that the Occupational Safety and Health Inspectorate has been carrying out specific supervision projects to improve the safety of lifting appliances used in stevedoring, focusing specifically on lifting belts and slings and the procedure used for checking them. While the Committee welcomes this information, it would be grateful if the Government would provide further particulars, including statistical data indicating the kind and magnitude of the said specific supervision undertaken, as well as on any results obtained from the supervision.

2. Further to its previous observation based on the comments made by the SAK, the Committee notes the Government's reply that the employer must report serious accidents to the occupational safety and health authorities, which will examine the case. The Government indicates that a report always has to be made on accidents, and the Federation of Accident Insurance Institutions makes various summaries of different sectors, such as cargo handling, which includes stevedoring. The Committee notes the information that statistics of accidents for the cargo-handling sector includes accidents involving stevedores. However, given the highly dangerous nature of dock work and in view of the aim referred to in *Article 39 of the Convention*, which is to assist in the prevention of occupational accidents and diseases in dock work, the Committee would be grateful if the Government would keep the Office informed on the measures taken or envisaged to collect and report statistics on occupational accidents and diseases for dock work specifically.

Peru (ratification: 1988)

The Committee notes with interest the information provided by the Government in reply to its previous comments, which give effect to *Articles 4, paragraph 2(l) and (o), and 32 of the Convention*. The Committee would be grateful if the Government would provide a copy of Directorial Resolution No. 029-2002-DCG.

The Committee notes the information provided by the Government in reply to its previous comments based on the observations made by the Dockers' Union of the port of Mayor de Callao concerning the alleged increase, at an alarming rate, of occupational accidents including deaths due to the non-observance of labour standards not only regarding holidays and rest periods but also due to the extra work done by dockworkers to make up for the inexperience of new dockworkers. In particular it notes the information that in the case of non-observance of the rights of the dockworkers, the workers have the possibility of reporting these violations of the legal and conventional standards to the labour administration authorities for them to make inspection visits with a view to verifying their veracity. If these authorities find irregularities they will impose adequate fines on the employers violating the said standards. Moreover, the workers have the right to initiate legal action before the tribunals. While noting the comments made by the Government, the Committee recalls its pervious comments that the problems complained about by the Dockers' Union did not refer to the inexistence of laws or regulations as much as they refer to their application. The Committee therefore wishes to point out that, pursuant to *Article 41* of the Convention, ratifying Members are required to (a) specify the duties in respect of occupational safety and health of persons and bodies concerned with dock work; (b) take the necessary measures, including the provision of appropriate penalties, to enforce the provisions of the Convention; (c) provide appropriate inspection services to supervise the application of the measures to be taken in pursuance of the Convention, or satisfy themselves that appropriate inspection is carried out. The Committee hopes the Government will take all the necessary implementation measures to ensure the enforcement of the provisions of the Convention. The Committee would be grateful if the Government provide extracts from the reports of the inspection services, the number of workers covered by the legislation, the number and nature of the contraventions reported and the resulting action taken, and the number of occupational accidents and diseases reported, as required by *Part V of the report form.*

The Committee notes the information provided by the Government in reply to its previous comments based on the observations made by the Dockers' Union of the port of Mayor de Callao on the question of the inexperience of new dockers. According to the Government's report, section 9 of the Law on the hours and days of work and overtime, Legislative Decree No. 854, provides that overtime work is to be voluntary both for the employer as well as the worker and only in justified cases of work resulting from fortuitous events or *force majeure* posing imminent danger to persons and things at work or endangering the continuity of productive work. The Committee recalls its previous request for the Government to provide information on the question of the inexperience of new dockers raised by the Dockers' Union, bearing in mind the training requirements provided for in *Articles 4, paragraphs 1(c), 2(r), and 7, paragraph 2*, of the Convention. The Committee would be grateful if the Government would provide indications in this regard.

The Committee is also addressing a request directly to the Government on a number of other questions relating to the application of the Convention.

Sweden (ratification: 1980)

The Committee notes the Government's report and the enclosed copy of the Swedish IKH 5.52.01 as well as the Swedish texts of several regulations. The Committee will examine these texts as soon as they are translated along with any further information the Government may wish to add concerning its previous comments based on the observation of the Swedish Trade Union Confederation (LO).

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Congo, Cyprus, Ecuador, France, Guinea, Iraq, Norway, Peru, United Republic of Tanzania.*

Information supplied by *Germany* in answer to a direct request has been noted by the Committee.

Convention No. 154: Collective Bargaining, 1981

Republic of Moldova (ratification: 1997)

The Committee notes the Government's report.

The Committee takes note with satisfaction of the Law on Trade Unions dated 7 July 2000, which complies with the requirements of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Belarus, Gabon, Latvia, United Republic of Tanzania, Uganda.*

Convention No. 155: Occupational Safety and Health, 1981

Ethiopia (ratification: 1991)

The Committee refers to its previous comments where it had noted the absence of legislative and other measures for the application of the provisions of the Convention. It had also noted in particular the wish of the Government to have the technical assistance of the ILO in elaborating a national policy on occupational safety and health, and had expressed the hope that an appropriate assistance will be provided by the ILO.

The Committee notes from the Government's latest report that despite some efforts made to give effect to *Articles 1, paragraphs 1, 2 and 3* (drafting of regulations to ensure adequate safety, health and welfare to public servants who are outside the scope of the Labour Proclamation No. 42/93), *and 14 of the Convention* (the offer by the Medical School of Addis Ababa University, the Gondar Health College and the Jimma Environmental Health and Science College of courses on occupational health), most of the difficulties the Government faced in applying the provisions of the Convention, persist. It notes however, that the Government has prepared a project proposal to solicit the technical and financial assistance of the ILO and other donor agencies. The Committee encourages the Government to pursue its efforts, in particular, regarding the solicitation of technical and financial assistance from the ILO and other donors. It hopes that the project will result in providing assistance for legislative drafting, training, as well as the arrangements being set up for the practical application of the provisions of the Convention.

The Committee is raising several points in a request addressed directly to the Government.

Uruguay (ratification: 1988)

Further to its previous comments, the Committee notes the information provided by the Government. It notes in particular that the Government has continued to implement its Emergency Plan for the Construction Industry during 1997 and 1998, through the programme of allocating of human and material resources to the General Labour and Social Security Inspectorate. The number of occupational safety inspectors stands at 28, and starting from 1998 in agreement with the Labour University of Uruguay, six assistants in technical prevention will be joining the Inspectorate. Inspection visits continued during the three years (1997-99) under the programme of inspections of the working conditions environment. Under the programme of training, training courses for 24 workers' delegates in construction were given, and a tripartite day of evaluation of the Emergency Plan for the Construction Industry was held. The first National Congress on the conditions of work and the working environment in the construction industry was held on 12 November 1998. Under the programme of publications, illustrative pamphlets and press publications continued to be utilized. The statistics provided on fatalities indicate a reduction in their number.

The Committee recalls its previous comments based on one of the conclusions of the Committee set up to examine the representation made by the Latin American Central of Workers (CLAT) and approved by the Governing Body. This conclusion had pointed out that the determined and continuous application of measures adopted following the submission of the representation, pursuant to *Article 4 of the Convention*, together with their evaluation ensures that the accidents and injury to health arising out of work are prevented. The Committee would be grateful if the Government would continue to take the necessary measures and to evaluate their impact and to keep the Office informed of all developments in this regard.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Cyprus, Ethiopia, Ireland, Slovakia, Viet Nam.*

Convention No. 156: Workers with Family Responsibilities, 1981

Japan (ratification: 1995)

The Committee takes note of the information contained in the Government's report. It also notes the comments made by the Japan National Hospital Workers' Union (JNHWU/ZEN-IRO), the Telecommunication Workers' Unions (TSUSHINROUSO) and the Japanese Trade Union Confederation (JTUC-RENGO), as well as the Government's response.

1. *Article 2 of the Convention.* JTUC-RENGO indicates that the Convention is not applied in Japan to workers with fixed-term contracts and it recommends that the application of the Convention be extended to this category of workers. In its comments, JNHWU/ZEN-IRO notes that wage-based workers *(chingin-shokuin)* employed in Japanese hospitals are excluded from the coverage of the Child Care Leave Act. JNHWU/ZEN-IRO indicated in its 17 October 2000 comments that regular personnel in state-run hospitals enjoy paid leave to care for injured, sick or elderly family members, but that this benefit is not extended to wage-based workers. In its communications of 16 August and 22 August 2001, JNHWU/ZEN-IRO states that discriminatory treatment of wage-based workers in Japanese hospitals continues.

2. In its recent comments, JNHWU/ZEN-IRO points out that the Government has introduced a draft bill to the 151st Diet session which would modify the national legislation on childcare and nursing care leave, inter alia, to extend the application of the childcare leave law to those workers who are employed de facto on a permanent basis due to repeated renewals of their employment contracts. In this regard, the Committee notes the *FY2000 Annual Report on the State of Formation of a Gender-equal Society and Policies to be Implemented in FY2001 to Promote the Formation of a Gender-equal*

Society ("FY2000 Annual Report") supplied by the Government. The FY2000 Annual Report indicates that the draft bill submitted in February 2001 would: (1) incorporate welfare provisions for workers raising children and caring for family members; (2) prohibit disadvantageous treatment of workers due to their use of childcare or family care leave; (3) raise the age of children targeted by measures entitling workers to reduce working hours; and (4) provide for nursing leave.

3. With regard to coverage of the Convention, the Committee recalls that *Article 2* of the Convention states that it applies to "all branches of economic activity and all categories of workers". As the Committee observed in paragraph 46 of its General Survey of 1993 on workers with family responsibilities, the phrasing of the Convention was intended to cover all workers, "whether in full-time, part-time, temporary or other forms of employment, and whether they are in waged or unwaged employment". Therefore, the Committee welcomes the draft law, noting that its adoption would extend the right to childcare and nursing leave to additional categories of workers. In this regard, the Committee would be grateful if the Government would supply information concerning any measures taken or contemplated to extend application of the provisions of the Convention to part-time workers, workers on fixed-term contracts and wage-based workers. The Committee expresses the hope that the draft bill will be adopted in the near future and requests the Government to supply a copy of the Act once it is adopted.

4. *Article 3.* The Committee notes initiatives taken by the Government to promote equality of opportunity and treatment for workers with family responsibilities, including the approval in December 2000 of the Basic Plan for Gender Equality, which includes the objective of supporting men's and women's efforts to harmonize work with their family and community life. The Committee requests the Government to provide information on the measures taken or envisaged to implement the objectives of the Basic Plan relevant to the Convention.

5. *Article 4(a). Personnel transfers to remote workplaces.* JTUC-RENGO states that company regulations frequently require full-time workers in Japan to remain available to work overtime hours or to transfer to a different workplace. In its previous observation, the Committee had noted the comments of JTUC-RENGO (dated 29 October 1999), as well as those of TSUSHINROUSO (dated 17 October 2000) regarding the transfer of workers with family responsibilities to remote workplaces. TSUSHINROUSO's comments concern the transfer of workers employed by the Nihon Telephone and Telegraph (NTT) and allied companies. According to TSUSHINROUSO, the transfers have placed great strains on the employees' lives, particularly on their ability to manage their family responsibilities and balance those responsibilities with their work lives. Replying to TSUSHINROUSO's comments, the Government indicates that adequate rules should be negotiated between employers and employees before personnel are transferred to a distant workplace, and that such rules should, to the extent possible, define the areas and conditions of the transfers, taking measures to reduce the burden of the transfer on the worker. The Committee notes that similar concerns were raised in the 17 October 2000 comments of JNHWU/ZEN-IRO, which presented several examples of workers allegedly forced to resign from their jobs as a result of being transferred to distant workplaces without their consent. In all the cases presented, while the Government indicates that the workers' family responsibilities were considered by the employer, it appears that the workers' objections were overlooked because the

transfers were considered to constitute recognition of the workers' experience and abilities.

6. The Committee notes that concerns regarding the practice of transferring employees to distant workplaces without prior consultation are also raised in the recent comments of JNHWU/ZEN-IRO (dated 22 August 2001), which refer to the results of a survey on personnel transfers conducted in April 2001 by the Kanto-Shinetsu Regional Council of JNHWU/ZEN-IRO. Out of 89 hospital and sanatorium workers who had undergone transfers, the majority (89 per cent) indicated that there had been no consultation or announcement from the employer prior to transfer. Twenty per cent of those surveyed indicated that the transfers required them to live away from their families. In its previous comments dated 17 October 2000, JNHWU/ZEN-IRO noted that forced transfers to distant workplaces are frequently imposed upon staff, disregarding the will of the employees concerned. According to JNHWU/ZEN-IRO, workers are thereby forced to choose between accepting the transfer and being separated from their families, refusing the transfer and risk being dismissed, or simply quitting the job. The Government has not yet responded to these comments.

7. The Committee recalls that Paragraph 20 of Recommendation No. 165 encourages employers to consider family responsibilities when transferring workers from one locality to another. The Committee notes that the fact that a transfer may represent recognition of a worker's capabilities or even a promotion is not dispositive of whether the worker is able or willing to accept a transfer, as the worker's family responsibilities may preclude him or her from moving to a different workplace. The Committee considers that, in order to take a worker's family situation into consideration in accordance with *Article 4(a)* of the Convention, the employer should give the fullest consideration possible to the worker's genuine need to care for members of his or her family. The worker's family responsibilities in this regard should be considered and given appropriate weight along with the business reasons underlying the transfer proposal. The Committee also points out that a worker's acceptance of a transfer in the past does not signify that the worker is able or willing to accept a transfer to a distant workplace at another stage of his or her life, as family circumstances can, and frequently do, change. In this context, the Committee points out that one of the objectives of the Convention is to promote the ability of workers with family responsibilities to balance their family and work life. As a necessary corollary, this would include these workers' ability to balance their family responsibilities with any advances they may make in their professional lives. Therefore, to the extent possible, employer practices should not force workers to choose between retaining their jobs or fulfilling their family responsibilities, in so far as these responsibilities do not impair their ability to perform the job. The Committee expresses the hope that the practice of imposing transfers on workers will be reviewed and brought into greater conformity with the requirements of the Convention.

8. *Article 4(b).* The Committee notes with interest that childcare and family leave benefits have been raised from 25 per cent of the worker's wage to 40 per cent as of January 2001. The Committee also notes the measures taken by the Government to facilitate the taking of childcare leave, including assistance to employers replacing employees on childcare leave and placing the employee in the same position after the leave, exemptions from payment of insurance premiums and year-end bonuses paid to employees on childcare leave. JTUC-RENGO points out that the measure providing for exemptions from payment of insurance premiums does not extend to workers on family

care leave. The Committee asks the Government to keep it informed of any measures taken or contemplated to extend application of these provisions to workers on family care leave.

9. *Article 5.* In its comments of 17 October 2000, JNHWU/ZEN-IRO states that in-house nurseries at national hospitals are not adequately staffed as required by the Child Welfare Act. It further states that the Ministry of Health, Labour and Welfare has not allocated sufficient funds for in-house childcare facilities, but has instead commissioned the Mutual Aid Association to administer those services. In reply, the Government states that the management of these facilities, established by the Second Mutual Aid Association of the Ministry of Health, Labour and Welfare, is commissioned to the Childcare Facilities Management Council; that it is taking all measures possible under present conditions; and that these services are not considered as services that the Government is obligated to provide. The Committee notes this information. It recalls that *Article 5(b)* of the Convention requires the Government to take all measures compatible with national conditions and possibilities to develop or promote "community services, public or private, such as child-care and family services and facilities". The Committee would be grateful if the Government would continue to supply information on the measures taken or envisaged to promote the application of *Article 5(b)* in regard to childcare services and facilities.

10. *Article 8.* The Committee refers to its previous observation noting the communication received from JTUC-RENGO on 29 October 1999, which expressed concerns over the lack of protection in Japanese legislation against termination of employment due to family responsibilities. In its communication, JTUC-RENGO had indicated that there was a divergence between the protection provided under *Article 8* of the Convention and Japanese law. Responding to the concerns raised by JTUC-RENGO, the Government indicates that protection against dismissal on the basis of family responsibilities is covered by section 1(3) of the Japanese Civil Code. The Government also notes that sections 10 and 16 of the Child Care and Family Leave Act, No. 107 of 9 June 1995, prohibit an employer from dismissing an employee because he or she has requested to take or has taken such leave. In this regard, the Committee notes that section 1(3) of the Civil Code appears to provide general protection to persons against abuses of their rights, without specifying either workers with family responsibilities or protection from termination of employment. Moreover, the Committee notes that the protection from dismissal provided by Act No. 107 is narrower than that contemplated by *Article 8* of the Convention, as it is directed only at the issue of dismissal due to requesting or taking childcare or family care leave, not to dismissal due to family responsibilities generally. Further, Act No. 107 appears to exclude daily labourers and workers on fixed-term contracts from coverage. The Committee requests the Government to indicate whether there are any judicial decisions interpreting the legal provisions referred to and, if so, to supply copies of any such decisions. In addition, the Committee asks the Government to provide information in its next report on any measures taken to ensure that *Article 8* is applied in national law and practice.

The Committee is raising other points in a request addressed directly to the Government.

[The Government is asked to report in detail in 2003.]

Niger (ratification: 1985)

The Committee notes that for a number of years the Government has not submitted a report or the report submitted has not replied to previous direct requests. The Committee draws attention to the need for information on the following points: the adoption of the national policy contemplated by *Article 3 of the Convention*; measures taken to enable workers with family responsibilities to exercise their right to free choice of employment; measures taken to extend the application of section 119(4) of the Labour Code to men with family responsibilities; the manner in which the needs of workers with family responsibilities are taken into account in community planning at the local and regional levels; the manner in which family health centres, cooperatives or other organizations assist workers in caring for their dependent children or other family members; measures taken to disseminate information on the principles of the Convention under *Article 6*; vocational training and employment programmes to enable workers with family responsibilities to enter or re-enter the labour market under *Article 7*; existing provisions that prohibit family responsibilities from being used as a reason for termination; and the information requested under *Part V of the report form*.

The Committee hopes that the Government will not fail to take the necessary measures and to provide the information requested.

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Requests regarding certain points are being addressed directly to the following States: *Ethiopia, Japan, Niger, Russian Federation.*

Convention No. 157: Maintenance of Social Security Rights, 1982

A request regarding certain points is being addressed directly to the *Philippines*.

Convention No. 158: Termination of Employment, 1982

Bosnia and Herzegovina (ratification: 1993)

The Committee notes that the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its 1997 direct request, which read as follows:

> The Committee notes the conclusions, approved by the ILO Governing Body, of the Committee set up to examine the representation alleging non-observance of the Convention made under article 24 of the ILO Constitution by the Union of Autonomous Trade Unions of Bosnia and Herzegovina. In its conclusions, the Committee considered that the acts described in the representation violate *Article 5, paragraph (d), of the Convention* and invited the Government to take various measures to ensure compliance with the provisions of the Convention. Please supply a detailed first report which includes in particular information on the application of *Article 5, paragraph (d)*.

Democratic Republic of the Congo (ratification: 1987)

The Committee notes with regret that the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its

next session and that it will contain full information on the matters raised in its 1997 direct request, which read as follows:

> *Article 2, paragraphs 4 to 6, of the Convention.* The Committee notes the information to the effect that "the provisions of Convention No. 158 are applied in Act No. 81/003 of 17 July 1981 relating to the status of career staff in state public services and in its implementing regulations".
>
> *Article 5, paragraphs (c) and (d).* The Committee notes that the Government refers to a forthcoming review of the legislation which might provide an opportunity to give effect to these provisions of the Convention. It hopes that the Government's next report will contain information in regard to the result of the proposed review. The Committee trusts that the next report will also contain information on the manner in which guarantees are provided, by means of legislation or according to any other method of application provided for in *Article 1* of the Convention, to the effect that sex, religion, marital status, family responsibilities, pregnancy, and the fact that an employee has made a complaint or participated in proceedings instituted against an employer, or has lodged an appeal to the competent administrative authorities, shall not constitute valid reasons for termination.
>
> *Article 12.* The Committee requests the Government to indicate the measures which have been taken or are envisaged to give effect to the provisions of this Article of the Convention. Please provide copies of the texts of the collective agreements containing provisions for severance allowance in case of termination. Please also specify whether the loss of entitlement to such severance allowance is provided for in the collective agreements in case of termination for serious misconduct, as defined in sections 58 and 60 of the Labour Code.
>
> *Parts IV and V of the report form.* Please provide the required information on the practical application of the Convention, by supplying copies of decisions rendered by courts in relation to termination, together with any relevant statistical information.

Ethiopia (ratification: 1991)

See observation for Convention No. 111.

Gabon (ratification: 1988)

1. The Committee notes the Government's report for the period ending September 2001. It also understands that the Government, the Employers' Confederation of Gabon (CPG), the Trade Union Confederation of Gabon (COSYGA) and the Free Trade Union Confederation of Gabon (CGSL) have concluded a National Pact for Employment on 1 June 2000. The Pact provides in particular that enterprises operating in Gabon give priority in hiring or rehiring Gabonese jobseekers to systematically replace, whenever possible, all foreign workers who are laid off, resign, or retire, and that all posts occupied by foreigners should be filled by Gabonese. Under earlier arrangements, public and private employers conducted an annual inventory of posts to be filled and their characteristics. In previous comments, the Committee had expressed its concern in respect of the provisions of the Convention over the policy of "gabonization" of jobs. By virtue of *Article 2*, the Convention is, in effect, applicable to all salaried workers. Even though nationality is not mentioned in *Article 5* among the list of grounds which may not constitute a valid reason for termination of employment, the safeguards listed in the other Articles, notably *Articles 8 and 9*, are applicable to nationals and foreigners alike. Any dismissal of a foreign worker that is based on an invalid ground is contrary to the provision of *Article 4* which requires a valid reason for dismissal related to the capacity

or conduct of the worker, or the operational requirements of the undertaking, establishment or service. The Committee hopes that the Government will be able to provide a detailed report which includes practical information on the application of the provisions of the Convention (number of appeals against unjustified termination, the outcome of such appeals, the nature of the remedy awarded and the average time taken for an appeal to be decided) and the number of dismissals possibly resulting from the implementation of the Pact *(Part V of the report form)*. The Committee recalls that in the absence of any other valid reason, the "gabonization" of jobs cannot be invoked as a valid reason for dismissal as defined in the Convention.

2. *Article 8, paragraph 2.* The Government refers in its report to the provisions of articles 295, 296 and 297 of the Labour Code and indicates that the decision of the labour inspector may be appealed. The Committee again asks the Government to specify whether articles 296-298 of the Labour Code, which provide that the labour inspector's decision to authorize dismissal of a staff representative may be appealed to an administrative body, also applies to the decision of the labour inspector to authorize an individual or collective dismissal for economic reasons.

3. *Article 9, paragraph 3.* Please specify if the labour tribunal is empowered to examine the reasons for any decision by the labour inspector to authorize an individual or collective dismissal for economic reasons.

[The Government is asked to report in detail in 2002].

Turkey (ratification: 1995)

The Committee notes the discussion of the Conference Committee, which took place during the 89th Session of the Conference (June 2001). It also notes the information contained in the Government's report, received in September 2001, which includes comments supplied by the Confederation of Progressive Trade Unions (DISK) and the Turkish Confederation of Employers' Associations (TISK) in Turkish. The Committee will examine the Government's report and comments of the DISK and TISK during its upcoming session.

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In addition, requests regarding certain points are being addressed directly to the following States: *Latvia, Uganda, Venezuela.*

Convention No. 159: Vocational Rehabilitation and Employment (Disabled Persons), 1983

Sao Tome and Principe (ratification: 1992)

The Committee again notes that the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its 1997 direct request, which read as follows:

> The Committee notes the Government's first report. It would be grateful if the Government could provide, in its next report, additional information on the following points:

Article 3 of the Convention. In its report the Government indicates that disabled persons have access to training centres and to work centres. Please indicate how such centres are organized and how they operate, together with the categories of disabled persons which have access to them. In addition, please indicate any other measures taken or envisaged to promote employment opportunities for disabled persons on the free labour market.

Article 5. Please indicate according to which methods the representative organizations of employers and workers and the representative organizations of disabled persons are consulted on the implementation of the national vocational rehabilitation and employment policy for these persons, in accordance with the provisions of this Article.

Article 7. Please indicate the services introduced to ensure vocational rehabilitation and employment for categories of disabled persons other than the children who are blind or suffer from poliomyelitis mentioned in the report.

Article 8. Please explain the measures taken or envisaged to promote the establishment and development of vocational rehabilitation and employment services for disabled persons in rural areas and isolated communities.

Article 9. Please indicate the measures taken to guarantee the training and availability of counsellors in respect of vocational rehabilitation and employment for disabled persons.

Part III of the report form. The Government refers to the different authorities which are entrusted with the application of laws and administrative regulations. Please indicate the apportionment of powers between each of these authorities and the methods by which this application is ensured.

Part V. Please provide information on the practical application of the Convention, in particular statistics and extracts from reports, studies or inquiries on the matters covered by the Convention (for example, as regards particular areas, sectors of activity or categories of disabled workers).

Slovakia (ratification: 1993)

The Committee notes that the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its December 1995 direct request, which read as follows:

> *Article 2 of the Convention.* The Committee notes the information on the activities of the Ministry of Labour, Social Affairs and Family and the territorial labour bodies in the implementation of the national policy on vocational rehabilitation and employment of disabled persons. It would be grateful if the Government would indicate, in its next report, the manner in which the national policy is periodically reviewed, as required by this Article.
>
> *Article 5.* The Committee notes the information concerning cooperation of the competent public bodies with the representative organizations of disabled persons, such as the Slovak Union of Disabled Persons and the Association of Disabled Citizens. Please indicate whether the representative organizations of employers and workers are consulted on the implementation of the national policy, as required by this Article, and describe the manner in which these organizations are consulted.
>
> *Article 8.* Please describe measures taken to promote the establishment and development of vocational rehabilitation and employment services for disabled persons in rural areas and remote communities, as required by this Article.
>
> *Part V of the report form.* Please continue to provide information on the application of the Convention in practice, including for example, statistics, extracts from reports, studies

and inquiries, concerning the matters covered by the Convention (for example, with respect to particular areas or branches of activity or particular categories of disabled workers).

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Bahrain, Burkina Faso, Guinea, Kuwait, Kyrgyzstan, Madagascar, Mali, Portugal, Zimbabwe.*

Convention No. 160: Labour Statistics, 1985

Requests regarding certain points are being addressed directly to the following States: *Bolivia, Republic of Korea, Kyrgyzstan, Tajikistan.*

Convention No. 161: Occupational Health Services, 1985

A request regarding certain points is being addressed directly to the *Czech Republic.*

Convention No. 162: Asbestos, 1986

Chile (ratification: 1994)

The Committee refers to its earlier observation in which it noted the comments made by the World Federation of Trade Unions (WFTU) and the documentation sent by the National Trade Union Confederation of Chilean Construction, Wood, Construction Materials and Allied Workers. The WFTU's comments concern the use of asbestos by a number of enterprises and its harmful effects both on the workers exposed to it and on the population in the vicinity.

The Committee notes the Government's comments indicating that the exposure of workers had occurred many years earlier, even before the Convention was adopted, and when the dangers of exposure to asbestos were not realized. The Government indicates that at the time the Convention was ratified, the Supreme Decree No. 745/92 concerning the Regulation on basic health and environmental conditions in workplaces was already in force. According to the Government, this instrument contains an obligation for the employer to maintain in workplaces the necessary conditions to protect the life and health of the workers. The Government however indicates that the time when asbestos is dangerous is when it is being handled during manufacture of products. It indicates, furthermore, that as from July 2000 the Ministry of Housing and Urbanism has prohibited the use of products or elements containing asbestos cement in construction work. It also indicates that by mistake asbestos cement and free asbestos have been assimilated and classed as having similar levels of toxic hazard. The Government recalls that in 1991 the Ministry of Health indicated, through the Department of Occupational Health, that "the risk of cancer is probably undetectable or extremely low and has not been really quantified". The Government indicates that the firm mentioned in the WFTU's comments, the *Sociedad Industrial Pizarreño, S.A.*, did manufacture fibre cement products for construction, using asbestos as a raw material. Nevertheless, the Government indicates that this firm has not manufactured products with asbestos since

1999. Since that year, according to the Government, asbestos-free processes have been used by firms of very different sizes, embracing over 80 per cent of national fibre cement production which has consequently involved a reduction in imports of asbestos in the same proportion. Finally, the Government indicates that the affected persons concerned have legal advice and access to the courts.

Noting the Government's comments, the Committee wishes to recall that, as indicated inter alia in the preparatory work on Convention No. 162, "The health consequences of asbestos exposure were recognized rather late ... The main reason for these delays has been the long latency – up to several decades – between the start of work with asbestos and the development of clinical signs of the diseases. The illness can also appear many years after cessation of work in persons who had left jobs where they had been exposed to asbestos without any evident health impairment" (ILO: Report VI(1), International Labour Conference, 71st Session, Geneva, 1985, pages 3 and 4). Consequently, the protection measures to be adopted must take into account the fact that workers who were exposed to the harmful effects of asbestos even before the Convention was adopted or ratified by a specific state. Proof is furnished by the fact that, as the Government indicates, provisions had been adopted in Chile before ratification of the Convention. Moreover, the fact that a number of firms have stopped using asbestos in their manufacturing processes does not mean that the harmful effects of the material on workers' health have disappeared, all the more so since the Committee understands from the Government's statement that the number of firms may be very large. Consequently, it is now that the harmful effects of exposure to asbestos are being felt and it is now that workers who were exposed should be provided, inter alia, with such medical examinations as are necessary to supervise their health in relation to the occupational hazard they incurred, as provided in *Article 21, paragraph 1, of the Convention*. Furthermore, the same Report of the Conference also states that "Although there is no evidence of adverse effects of commercial use of asbestos on the health of the general population, the question of possible long-term health effects arises because of the uncertainty about safe limits of exposure to carcinogens" (ILO: Report VI(1), International Labour Conference, 71st Session, Geneva, 1985, page 5). The Committee accordingly considers that appropriate measures should be taken to prevent pollution of the general environment by asbestos dust released from the workplace, as provided in *Article 19, paragraph 2*, of the Convention, and that action should be taken to screen those persons of the population who have been subject to exposure to asbestos, in order to adopt appropriate measures in favour of them.

The Committee therefore requests the Government to adopt all necessary measures to give effect to national legislation covering activities related to exposure to asbestos, thus guaranteeing application of the relevant provisions of the Convention.

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In addition, requests regarding certain points are being addressed directly to the following States: *Chile, Uganda.*

Convention No. 163: Seafarers' Welfare, 1987

A request regarding certain points is being addressed directly to *Brazil.*

Convention No. 164: Health Protection and Medical Care (Seafarers), 1987

Requests regarding certain points are being addressed directly to the following States: *Brazil, Mexico, Norway.*

Convention No. 166: Repatriation of Seafarers (Revised), 1987

A request regarding certain points is being addressed directly to *Guyana.*

Convention No. 169: Indigenous and Tribal Peoples, 1989

Denmark (ratification: 1996)

The Committee notes that the Government's second report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes with interest the Government's first report on the application of the Convention. It notes in particular that agreements are in effect in Denmark which allow for a very large degree of autonomy of the indigenous people of Greenland within the Kingdom of Denmark, and that the Home Rule Government of Greenland exercises a considerable degree of legislative and regulatory authority over the situation in that territory.
>
> The Committee is asking for additional information on a number of points in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Guatemala (ratification: 1996)

1. The Committee notes the Government's second report following ratification, which was received too late to be examined at the previous session. This report, supplied by the Government in October 2000, provides more detailed information on a number of matters than was included in the first report. However, on many of them it indicates that the measures to be taken were covered by the referendum on constitutional reforms which was drafted in implementation of the Peace Agreement. This referendum was rejected by a popular vote on 16 May 1999, but the Government has offered little additional information on the measures which have been taken since then or are contemplated, to implement the Convention and the Peace Agreement.

2. The Committee also notes a communication from the Central Organization for Rural and Urban Workers (CTC), which was communicated to the Government on 28 September 2000, but concerning which the Government has made no comments. The CTC communication indicates that it was drawn up in consultation with the Council of Mayan Organizations of Guatemala (COMG) and the National Indigenous and Rural Coordinating Organization (CONIC). It is characterized as the Second Alternative Report on the application of the Convention, from the perspective of the Mayan people and Guatemalan workers. It also indicates that it is following up the First Alternative Report, submitted by the Federation of Rural Workers (FEDECAMPO), on whose report the Committee regrets the Government also has provided no reply.

3. The other principal source of information available to the Committee is the various reports of the United Nations Verification Mission in Guatemala (MINUGUA), established by the General Assembly in 1997 to verify compliance with the Peace Agreements. The most recent of these reports, published in September 2001, is entitled "Indigenous peoples of Guatemala: Overcoming discrimination in the context of the Peace Agreements" ("Los pueblos indígenas de Guatemala: la superación de la discriminación en el marco de los Acuerdos de paz"). MINUGUA has also published a number of other reports which give a clear picture of the situation.

4. These sources taken together indicate that major problems remain in the implementation of the Peace Agreements as concerns the indigenous peoples of the country, and in the implementation of the Convention. The CTC report details, in respect of most of the Articles of the Convention, the lack of decentralization of administration to the regional level that was contemplated in order to provide indigenous peoples with a greater voice in the administration of their own affairs. It states that "(T)he Peace Agreements have facilitated dialogue between representatives of the Mayan organizations and the Government, but they have not generated real results; for example, the Executive Body has not consulted indigenous organizations and communities on the process of decentralization".

5. The trade union organizations also comment on the lack of real consultation with the indigenous peoples of the country on the implementation of the Peace Agreements *(Article 6 of the Convention)*. They state that although mechanisms are provided for, they are not actually functioning. The Government has indicated in its last report, on this question, that the Congressional Committee on Indigenous Communities which has a majority of indigenous members constitutes a direct channel for the indigenous peoples to make their views known. Please provide additional information allowing an assessment of the situation in practice.

6. The Committee notes also the following comment by MINUGUA in its September 2001 report, based on close observation in the country of the developing situation: "The Mission has noted on several occasions that the commitments made concerning the indigenous peoples are among those which have been least implemented. The overall balance of the application of the Agreements indicates that most of the actions which were provided for to overcome discrimination and provide to the indigenous peoples the place they should have in the Guatemalan nation, are still awaiting fulfilment. This does not correspond to the changes proposed in the Agreements, but instead favours the persistence of a monocultural and exclusive model." (Unofficial translation, paragraph 9.)

7. While recognizing the complexity of the situation, the Committee nevertheless recalls that the ratification of the Convention was one element in the settlement of the internal conflict in the country which – as indicated in the preamble of the 1996 Peace Agreement – "brought an end to more than three decades of armed confrontation in Guatemala". It therefore urges the Government to renew its efforts to overcome difficulties in the application of the Convention and the Peace Agreements, and to continue to provide information to the Committee on how it is accomplishing this. In doing so, the Committee expresses the firm hope that the Government will comment on the observations made by workers' organizations in the country, together with the

indigenous peoples, and that the Committee will be in a position to note in the near future that concrete measures have been taken to apply the Convention.

The Committee is raising a number of more detailed matters in a request addressed directly to the Government.

Mexico (ratification: 1990)

1. The Committee notes the detailed report submitted by the Government. It notes that at its 282nd Session (November 2001), the Governing Body declared receivable two representations under article 24 of the ILO Constitution, alleging non-observance of the Convention by Mexico. They were submitted by the Academic Trade Union of the National Institute of Anthropology and History (SAINAH), and by the Union of Workers in the National Autonomous University of Mexico (STUNAM) together with the Independent Union of Workers of La Jornada (SITRAJOR), respectively. The Committee notes that the tripartite committee which will be responsible for the examination of these representations will not be established until the next session of the Governing Body in March 2002. The Committee will therefore examine the Government's report at its present session.

2. The Committee also notes various communications received under article 23 of the ILO Constitution concerning the application of the Convention by Mexico, made by the following organizations: the Independent National Trade Union of the Colegio de Bachilleres (28 August 2001), the Telephone Workers' Union, jointly with other workers' organizations (7 September 2001) and the Mexican Electricians' Union (28 September 2001), communicated to the Government in September 2001. Noting that the Government has not yet had sufficient time to comment on these observations, the Committee will defer its examination of them to its next session.

3. The Committee also notes the observations by the Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN), and by the Confederation of Workers of Mexico (CTM), which were sent with the Government's report. CONCAMIN states that the employers' sector has made efforts to generate employment in the Chiapas area. The CTM has indicated the need to develop legislation to apply and develop the constitutional mandates in force.

4. The Committee notes the various legislative initiatives adopted during the period covered by the report, particularly the constitutional reforms on indigenous questions, published in the Official Bulletin of the Federation on 14 August 2001. An initial analysis of these reforms indicates that they cover a large part of the subjects covered by the Convention. Nevertheless, the Committee is aware that these reforms have generated a great deal of controversy and that some sections of Mexican society, including indigenous and workers' organizations, have expressed concern that these reforms will have a negative impact on the social, economic and legal situation of the indigenous peoples of Mexico.

5. The Committee is examining the constitutional reforms in a more detailed way in a request being sent directly to the Government, which raises the following questions.

- *Definition and self-identification:* How the Government is ensuring that the constituent federal units are respecting the provisions of the Convention and applying them in a uniform and coordinated manner following the grant to the states of the right to establish the definitions and the power of self-determination of the indigenous peoples within their territories.

- *Lands:* Protection of rights to the natural resources and other land rights, particularly when third parties have acquired rights to the lands.
- *Administration:* How development of "coordinated and systematic action" for the protection of the integrity of the indigenous peoples of the country is assured (*Article 2*), in the light of the devolution to the constituent states of the power to legislate on a certain number of questions.
- *Process of adoption of the constitutional reforms:* Additional information on the participation of representatives of the indigenous peoples in the process of adoption of the constitutional reforms and in drawing up laws and regulations for the practical application of the reforms.

6. The Committee notes that the request being addressed directly to the Government follows up the representation submitted by the trade union delegation, D-III-57, section XI of the National Trade Union of Educational Workers (SNTE), Radio Education (final report adopted by the Governing Body in document GB.272/7/2, June 1998) and the representation submitted by the Radical Trade Union of Metal and Associated Workers (final report adopted by the Governing Body in document GB.276/16/3, November 1999). The request also follows up the observations submitted by the Authentic Labour Front (FAT) under article 23 of the Constitution of the ILO and the Government's reply to them.

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In addition, requests regarding certain points are being addressed directly to the following States: *Denmark, Guatemala, Mexico.*

Convention No. 171: Night Work, 1990

Portugal (ratification: 1995)

The Committee notes the Government's report and the detailed information it contains in reply to the previous direct request. The Committee notes with satisfaction the adoption of Legislative Decree No. 96/99 of 23 March 1999 amending the definition of night work, and Act No. 73/98 of 10 November 1998 concerning certain aspects of working time arrangements and incorporating Directive No. 93/104/CE of 23 November 1993 of the Council of the European Union. The above texts give effect to the provisions of this Convention.

The Committee is addressing a request directly to the Government about other matters.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Belgium, Cyprus, Czech Republic, Portugal.*

Convention No. 172: Working Conditions (Hotels and Restaurants), 1991

Requests regarding certain points are being addressed directly to the following States: *Barbados, Cyprus, Dominican Republic, Guyana.*

Convention No. 173: Protection of Workers' Claims (Employer's Insolvency), 1992

Requests regarding certain points are being addressed directly to the following States: *Austria, Botswana, Burkina Faso, Madagascar, Slovakia, Switzerland, Zambia.*

Convention No. 175: Part-Time Work, 1994

Mauritius (ratification: 1996)

The Committee notes with satisfaction that, in amending in 1996 the Labour Act, 1975, the Government took due account of the provisions of the Convention with a view to ensuring its application.

The Committee would appreciate receiving additional information regarding other points raised in a request addressed directly to the Government.

* * *

In addition, a request regarding certain points is being addressed directly to *Mauritius.*

Convention No. 182: Worst Forms of Child Labour, 1999

United States (ratification: 1999)

The Committee has noted a communication dated 11 September 2001 of the International Confederation of Free Trade Unions (ICFTU), submitting comments on the observance of the Convention, a copy of which has been forwarded to the Government for any comments it might wish to make on the matters raised therein.

In its communication, the ICFTU alleged, inter alia, that an underfunded labour inspectorate and inadequate penalties for employers who violate the law mean that legally established labour standards covering child labour are inadequately enforced. It referred to a 1997 survey, based on federal government data, which revealed that some 290,000 children were working illegally, of whom the greatest number worked in the agricultural and horticultural sectors. Some 14,000 children under the age of 14, some as young as nine, worked in garment "sweatshops". Under-age children were also employed in such industries as meatpacking, construction and in sawmills and furniture factories. In its communication, the ICFTU indicated that, notwithstanding the fact that agriculture is both dangerous and employs the largest share of children working in the United States, child labour laws governing minimum age, working hours, and overtime pay do not apply to agriculture. The ICFTU alleged that children are often unprotected from harmful pesticides and between 400 and 600 children working in agriculture suffer work-related injuries that are reported each year. In addition, between 1992 and 1996, 59 children lost their lives while working in agriculture.

The Committee requests the Government to present its comments on the allegations made by the ICFTU.

II. Observations on the application of Conventions in non-metropolitan territories

(articles 22 and 35, paragraphs 6 and 8, of the Constitution)

A. General observations

Denmark

Faeroe Islands

The Committee notes with regret that for many years most of the reports due have not been received. It expresses the hope that in future the Government will not fail to discharge this obligation under the ILO Constitution.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *France* (New Caledonia), *Netherlands* (Aruba), *United Kingdom* (Anguilla, Jersey).

B. Individual observations

Convention No. 8: Unemployment Indemnity (Shipwreck), 1920

France

French Southern and Antarctic Territory

In its earlier comments, the Committee drew the Government's attention to the lack of provisions regarding indemnity to be paid to seamen in the event of shipwreck in the legislation applying to vessels registered in the French Southern and Antarctic Territory, namely the Overseas Labour Code of 1952 and Chapter VI, section 26 of Act No. 96-151, with respect to the registration of vessels in this Territory. It notes with regret that the Government's latest report reproduces word for word the report sent in 1999, which revealed no progress in the adoption of regulations to make good these gaps in the legislation. The Committee is therefore obliged to remind the Government that under *Article 2 of the Convention*, in the event of loss or foundering of the vessel, an unemployment indemnity must be paid for the days during which the seaman remains, in fact, unemployed at the same rate as the wages payable under the contract, for at least two months. The Committee trusts that measures will be adopted in the near future to ensure full application of the Convention to French Southern and Antarctic Territory, and requests the Government to submit a copy of any text adopted in this connection.

[The Government is asked to report in detail in 2002.]

Convention No. 9: Placing of Seamen, 1920

Denmark

Faeroe Islands

The Committee notes with regret that over four consecutive years the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its 1993 direct request, which read as follows:

> The Committee notes the information provided by the Government in reply to its earlier comments. It notes, in particular, the adoption of Act. No. 17 of 10 March 1992 by which an unemployment insurance system and an employment service have been set up in the Faeroe Islands. It also notes the Government's statement to the effect that the placement service is free of charge and covers all occupational fields, including seafarers.
>
> The Committee would be grateful if the Government would supply, in its next report, information, statistical or otherwise, concerning the placement of seafarers (e.g. the number of applications received, the number of vacancies notified, the number of persons placed), as required by the report form under *Article 4 of the Convention*. Please also indicate whether the directorate appointed to manage and to have responsibility for unemployment insurance and assignment of work (section 15 of the abovementioned Act) includes representatives of shipowners and seamen and, if not, how effect is given or proposed to be given to *Article 5* (constitution of advisory committees consisting of an equal number of representatives of shipowners and seamen to advise on matters concerning the carrying on of employment offices for seamen).

Convention No. 10: Minimum Age (Agriculture), 1921

Requests regarding certain points are being addressed directly to *France* (New Caledonia), *Netherlands* (Netherlands Antilles), *United Kingdom* (Bermuda, British Virgin Islands, Falkland Islands (Malvinas), Isle of Man, Jersey).

Information supplied by the *United Kingdom* (Guernsey) in answer to a direct request has been noted by the Committee.

Convention No. 14: Weekly Rest (Industry), 1921

Requests regarding certain points are being addressed directly to the following States: *Denmark* (Greenland), *Netherlands* (Aruba).

Convention No. 16: Medical Examination of Young Persons (Sea), 1921

France

French Southern and Antarctic Territories

The Committee notes the Government's report for France and the overseas departments and territories. It notes the amendment of 6 July 2000 of the Order of

16 April 1986 concerning the conditions of physical fitness for the occupation of seaman.

Articles 2 and 3 of the Convention. The Committee recalls its comments of the 1999 general observation under Convention No. 73 on the seafarers' medical examination concerning the special nature of medical examinations in regard to the health of the crew, considered individually and collectively, and the safety of maritime navigation. It recalls in particular, the comment of the French Democratic Confederation of Labour (CFDT) and the National Federation of Maritime Trade Unions (FNSM) of 1995, repeated in 1996 stating that most seamen resident abroad do not have a medical examination of fitness.

The Committee also recalls that section 1 of Territorial Order No. 22 of 10 June 1996 applicable in the French Southern and Antarctic Territories to the medical certification of fitness for maritime navigation permits, and this facility is commonly used in practice by foreign nationals, that physical fitness for navigation can be attested by a doctor who is simply declared to the French consular authorities abroad. The Government is requested to indicate how it is ensured that the provisions of the Convention are respected when the medical examination takes place abroad. The Committee requests the Government to specify how foreign doctors declared with the consular authorities are approved by the competent authority. The Committee also requests the Government to supply statistical information, as soon as such statistics are available, regarding the manner in which the Convention is applied and particularly the number and nature of the contraventions reported.

The Committee requests the Government to indicate, in accordance with article 23, paragraph 2, of the ILO Constitution, the representative organizations of shipowners and seamen to which copies of the latest report have been communicated and if any observations have been received from these organizations concerning the practical application of the provisions of the Convention or the application of the legislative or other measures implementing the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to *Denmark* (Faeroe Islands), *France* (French Guiana, French Polynesia, Guadeloupe, Martinique, New Caledonia, Réunion, St. Pierre and Miquelon).

Convention No. 19: Equality of Treatment (Accident Compensation), 1925

France

French Polynesia

Article 1, paragraph 2, of the Convention. For many years the Committee has been drawing the Government's attention to the need to amend section 29 of Decree No. 57-245 of 24 February 1957 on compensation for industrial accidents and occupational diseases, so as to ensure that the nationals of member States that have ratified the Convention, as well as their dependents, are granted the same benefits as nationals, *without any condition as to residence.* In its last report the Government states that, in order to re-establish equal treatment, an amendment to section 29 of the abovementioned Decree is still under study and that a further request for the amendment was made to the local government of French Polynesia at the beginning of the year. The Committee notes this lack of progress with regret. It reminds the Government that as long ago as 1987 the Minister of Overseas Departments and Territories of France asked the authorities in French Polynesia to take steps for such amendment and that, in 1993, the governing council of the Social Insurance Fund made the same recommendation. The Committee therefore trusts that it will be possible to amend section 29 of Decree No. 57-245 in the very near future in order to bring it into line with *Article 1, paragraph 2*, of the Convention. It asks the Government to provide a copy of any texts adopted in this connection.

[The Government is asked to report in detail in 2002.]

Convention No. 22: Seamen's Articles of Agreement, 1926

France

French Southern and Antarctic Territories

The Committee, referring to its previous observation, notes again that the Government's report does not reply to the points raised. The Government states that the employment system for seamen and social relations on board vessels registered in the French Southern and Antarctic Territories are in fact, for the main part, governed by the provisions of the Labour Code and the Maritime Labour Code which are referred to by shipowners and seamen in the context of their contractual relations. The Committee notes, however, that the Government's report indicates that these employment contracts are not regulated by law but "in fact for the main part", by the provisions of these Codes and does not specify the nature of these employment contracts, namely whether they are seamen's articles of agreement or ordinary employment contracts. It is therefore bound to renew in part its previous observation which read as follows:

> The Committee recalls that, under the Labour Code, seamen's articles of agreement are governed by special provisions contained in the Maritime Labour Code – CTM (Act of 13 December 1926). Under the general provisions of this Code, and in view of the specific nature of maritime work, any contract concluded between a shipowner or his representative and a seafarer, whose object is the performance of a service on board ship for the purpose of a voyage, is a maritime labour contract governed by the provisions of this Act.
>
> The Committee also notes that section 4 of the CTM provides that maritime labour contracts are governed by two sets of provisions: by the CTM for the periods in which the seafarer is on board, and by the Labour Code outside these periods.
>
> However, the Committee recalls that the contracts of seafarers employed on ships registered in the French Southern and Antarctic Territories (TAAF) are subject to the provisions of the Overseas Labour Code (CTOM), section 30 of which states that the applicable legislation is that of the place at which the contract is executed *(lex loci solutionis)*. The Committee points out that the CTOM contains no maritime provisions and so does not make the distinction between the two sets of provisions applying to seafarers' contracts under section 4 of the CTM. It notes, however, that the CTOM takes precedence (section 30), and that its geographical scope extends to the antarctic territories and in part to the island of Mayotte.

With regard to the legal status of contracts of seafarers on board ships registered in the TAAF, the Committee asks the Government to state whether, as indicated in the text of the Provisional instructions concerning observance of the application to foreign seafarers of the conditions of employment in force on board vessels registered in the French Southern and Antarctic Territories, these contracts are indeed maritime labour contracts, or ordinary labour contracts, and to indicate in which sectors, other than the maritime sector, economic activities are conducted in the TAAF.

The Committee also notes that the magistrate's court of Saint-Denis, Réunion, has jurisdiction for individual labour disputes between shipowners and seafarers, for interpreting contracts, or annulling clauses of such contracts.

With regard to the interpretation of contracts and the applicable law (French or foreign), the Committee notes the Standard Employment Contract Governing the Employment of all Filipino Seamen on Board Ocean-Going Vessels) established by the Philippine Overseas Employment Administration (POEA). It notes, inter alia, that section J (applicable law) states that the laws of the Philippines and international treaties ratified by the Philippines apply to all employment contracts of Filipino seamen. The Philippines has not ratified the Seamen's Articles of Agreement Convention, 1926 (No. 22). According to section I (Jurisdiction) of the above Standard Employment Contract, the POEA has original and exclusive jurisdiction over any disputes arising out of the contract.

The Committee notes from the Government's report that no individual or collective disputes concerning the application of this Convention have been registered. It requests the Government to state (i) the law which applies to the contract(s) of seafarers employed on vessels registered in the TAAF in the case of both contracts of French seafarers (or assimilated) and contracts of non-resident foreign seafarers hired under a service contract concluded with the shipowner and a company governed by foreign law, responsible for crew recruitment, and (ii) the venue for litigation from French and foreign seafarers employed on vessels registered in the TAAF.

The Committee recalls that, as regards the applicable labour law, when registration is transferred to the TAAF the contracts concluded by seafarers to work on ships previously registered in a port of metropolitan France, an overseas department or an overseas territory (other than the TAAF), are no longer governed by the CTM, but by the CTOM.

In addition, the Committee requests the Government to indicate, in accordance with article 23, paragraph 2, of the ILO Constitution, to which representative organizations of shipowners and seamen copies of the latest report have been communicated and whether any observations have been received from these organizations in regard to the practical application of the provisions of the Convention or the application of legislative or other measures giving effect to the provisions of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Martinique

Article 9, paragraph 1, of the Convention. See under Convention No. 22, France.

Réunion

Article 9, paragraph 1, of the Convention. See under Convention No. 22, France.

St. Pierre and Miquelon

Article 9, paragraph 1, of the Convention. See under Convention No. 22, France.

* * *

In addition, requests regarding certain points are being addressed directly to *France* (French Polynesia) and the *United Kingdom* (Anguilla, Gibraltar, Isle of Man, Jersey).

Convention No. 23: Repatriation of Seamen, 1926

Requests regarding certain points are being addressed directly to the *United Kingdom* (Anguilla, Bermuda, Isle of Man).

Convention No. 25: Sickness Insurance (Agriculture), 1927

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 29: Forced Labour, 1930

Requests regarding certain points are being addressed directly to the *Netherlands* (Aruba) and *United Kingdom* (Gibraltar, Montserrat, St. Helena).

Convention No. 32: Protection against Accidents (Dockers) (Revised), 1932

France

French Guiana

The Committee notes the information provided by the Government in its report. It notes the statement that regulations have changed since the previous report, this change resulting in particular from reforms in dock work following the implementation of the applicable regulations in metropolitan France. The Committee therefore asks the Government to indicate the legislation which gives effect to the provisions of the Convention in French Guiana and to send a copy thereof.

The Committee also notes that in 1985 France ratified the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152), this ratification entailing, *ipso jure*, the immediate denunciation of Convention No. 32. The Committee asks the Government to consider the possibility of extending the scope of Convention No. 152 to French Guiana, pursuant to article 35 of the Constitution of the International Labour Organization, and to communicate any information on this matter.

Guadeloupe

The Committee notes that in the Government's latest report received in August 2001 the Departmental Directorate of Labour, Employment and Occupational Training of Guadeloupe (DTEFP) specifies that the question of applying the provisions of the Convention lies within the competence of the central authority. Recalling that the Government indicated earlier that legislation applying the Convention in metropolitan France applied equally to the overseas departments, but that the DTEFP indicated that metropolitan regulations were not applicable to overseas departments in this field, the Committee requests the Government to indicate the legislation which gives effect to the provisions of the Convention in Guadeloupe and to supply a copy.

The Committee notes, furthermore, that in 1985 France ratified the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152), which resulted, *ipso jure*, in the immediate denunciation of Convention No. 32. The Committee requests the Government to examine the possibility of extending the application of Convention No. 152 to Guadeloupe, pursuant to article 35 of the Constitution of the International Labour Organization and to supply any information on the subject.

Martinique

The Committee notes the information communicated by the Government in its report.

Part V of the report form. The Committee notes the statistics provided by the Government in its report, taken from the general statistical report prepared each year by the services of the General Social Security Fund of Martinique. The Committee notes the Government's indication that processing of statistics relating to declarations of occupational accident communicated to the labour inspection services does not allow precise identification of accidents for a particular category of workers, such as dockers. The Committee notes, therefore, that the data provided by the Government gives no indication as to whether only dockers or all occupational categories of the undertakings considered are concerned. The Committee requests the Government to take all the necessary measures to ensure that the processing of statistics should allow identification of accidents for each category of workers, and particularly dockers. It also requests it to supply any general comments it deems useful on the manner in which the Convention is applied, including, for instance, extracts from inspectors' reports and, if such statistics are available, information on the number and nature of contraventions reported, the number, nature and causes of accidents reported, etc.

The Committee notes, furthermore, that in 1985 France ratified the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152) which resulted, *ipso jure*, in the immediate denunciation of Convention No. 32. The Committee requests the Government to examine the possibility of extending the application of Convention No. 152 to Martinique, pursuant to article 35 of the Constitution of the International Labour Organization and to supply any information on the subject.

Réunion

The Committee notes the information provided by the Government in its report. It notes that only one harbour – Pointe des Galets in the town of Le Port – makes use of dockworkers' skills and no violation has been recorded with respect to occupational safety and health by the competent labour inspector. Although the Committee notes that, according to the Government's report, the legislation applicable to Réunion is the same as that applicable in metropolitan France, the Committee asks the Government to indicate the legislation which gives effect to the provisions of the Convention in Réunion and to send a copy of it.

The Committee also notes that in 1985 France ratified the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152), this ratification entailing, *ipso jure*, the immediate denunciation of Convention No. 32. The Committee asks the Government to consider the possibility of extending the scope of Convention No. 152 to Réunion, pursuant to article 35 of the Constitution of the International Labour Organization, and to communicate any information on this matter.

Convention No. 33: Minimum Age (Non-Industrial Employment), 1932

Requests regarding certain points are being addressed directly to *France* (New Caledonia), *Netherlands* (Netherlands Antilles).

Convention No. 42: Workmen's Compensation (Occupational Diseases) (Revised), 1934

A request regarding certain points is being addressed directly to *Australia* (Norfolk Island).

Convention No. 53: Officers' Competency Certificates, 1936

France

French Guiana

Please refer to comments under Convention No. 53, France.

Guadeloupe

Please refer to comments under Convention No. 53, France.

French Polynesia

Please refer to comments under Convention No. 53, France.

Martinique

Please refer to the comment made under Convention No. 53, France.

Réunion

Please refer to the comment made under Convention No. 53, France.

St. Pierre and Miquelon

Please refer to the comment made under Convention No. 53, France.

* * *

In addition, requests regarding certain points are being addressed directly to *France* (French Southern and Antarctic Territories, New Caledonia).

Convention No. 58: Minimum Age (Sea) (Revised), 1936

A request regarding certain points is being addressed directly to *France* (French Southern and Antarctic Territories).

Convention No. 62: Safety Provisions (Building), 1937

France

Guadeloupe

The Committee notes the information provided by the Government in its report.

Article 3 of the Convention. The Committee notes that the Government states in its report that there is no definition in regulations of the "persons responsible for the application of laws and regulations". The Government explains that this is a constitutional definition coming from the courts and determined on a case by case basis as non-exhaustive criteria: persons within the enterprise with the authority and necessary means for compliance with safety requirements. The Committee requests the Government to take the necessary measures to ensure that the regulations establish criteria determining these "persons responsible" and to indicate the measures adopted in this respect.

Article 6. The Committee notes that statistical data have not been transmitted by the General Social Security Fund, which is responsible for the compilation of such statistical data. The Committee reminds the Government that, in addition to the number and classification of accidents, it is obliged to provide information that is as detailed as possible on the number of persons employed in the building industry and covered by the statistics.

Article 7, paragraphs 2 and 7. The Committee notes the statement by the Government that Decree No. 65-48 of 8 January 1965 respecting protection and safety in buildings and public works covers the provisions of this Article. It notes the information provided by the Government that there is no definition in regulations of the competent person and that such competence is determined in practice on the basis of diplomas, experience, seniority in the job, expertise and specific training …, which criteria are taken separately or as a whole as a basis for or to establish the characteristics of the concept of competence. The Committee requests the Government to bring national law and practice into conformity with the provisions of the Convention by adopting the necessary measures to determine the persons competent for constructing, taking down or substantially modifying, and periodically inspecting scaffolds.

Articles 8 to 18. The Committee notes that the texts issued to apply the provisions of *Articles 8 to 18* of the Convention are identical to those in metropolitan France.

On this latter point, and taking into account the comments made by the Government in its report and noted by the Committee, it requests the Government to take all the necessary measures to bring its legislation into conformity with the provisions of the Convention. The Committee hopes that the Government will take into account the comments that it made on the application of this Convention in relation to the last report on the Convention submitted by the Government of France.

* * *

Requests regarding certain points are being addressed directly to *France* (French Guiana, Martinique, Réunion).

Convention No. 69: Certification of Ships' Cooks, 1946

Requests regarding certain points are being addressed directly to *France* (French Polynesia), *United Kingdom* (Isle of Man).

Convention No. 73: Medical Examination (Seafarers), 1946

France

French Southern and Antarctic Territories

The Committee notes the information in the Government's report for metropolitan France and overseas *départements* and territories including the reference to the amendments of 6 July 2000 to the departmental order *(arrêté)* of 16 April 1986 concerning the certificate of medical fitness for maritime navigation.

The Committee recalls its comments in its general observation in 1999 concerning the special character of seafarers medical examinations and the link between the health of the crew, both individually and collectively, and the safety of maritime navigation.

It recalls in particular comments from the French Democratic Federation of Labour (CFDT) and the National Federation of Maritime Unions (FNSM) in 1995, which were renewed in 1996, to the effect that most seafarers domiciled abroad do not undergo any medical examination at all.

It further recalls that it is standard practice for non-French nationals or residents employed in ships on the TAAF register to undergo their medical examination in their home country by a physician registered with the consular authority. However, unlike statistics covering medical examinations in metropolitan France, the *départements* and other overseas territories, the Government has never kept statistics concerning seafarer medical examinations carried out by doctors in the seafarer's country of domicile, *although this category represents two thirds of seafarers in ships on the TAAF register.*

Similarly, the Committee recalls the statement of a Government representative of France before the Conference Committee on the Application of Standards in 1998 that the Government wished to compile all the requested statistics in the shortest possible time and that the Territorial Order of 10 June 1996 would make this possible. It was explained that in practice most often the physician of the consular personnel carried out seafarers' medical examinations abroad. The Committee would expect that under such circumstances the collection of statistics would be facilitated. However, in the statistics for 1999 and 2000, included as part of the present report, there is no indication of medical examinations of personnel on ships registered in the TAAF, and the report itself only mentions that there is periodic medical examination of seafarers in ships on this register.

In keeping with the Government's statement in 1996, the Committee requests the Government to indicate the steps it is taking to address the problem of supervising the quality and reality of seafarer medical examinations conducted in the seafarer's country of domicile, and to indicate to the Committee when statistics concerning these examinations will be forwarded.

[The Government is asked to report in detail in 2003.]

Convention No. 81: Labour Inspection, 1947

France

French Guiana

The Committee notes the reports and documents annexed thereto, which have been submitted by the Government.

The Committee notes with satisfaction that a transport inspector especially for Guiana was nominated in March 2001; while previously, it was the inspector for Martinique who used to service both French Guiana and Martinique since 1996.

Article 5 of the Convention. The Committee notes that a regional set-up for the National Agency for Improved Working Conditions was established, and that a public prevention service was set up bringing together health, and safety coordinators, occupational doctors, prevention services of the General Social Security Fund, and the various labour inspection services.

Article 7. While observing that labour inspectors can have up to ten training sessions a year provided by the Central Training Authority, the Committee would be grateful if the Government would supply clarifications on the substance of this training, and its impact on the activities undertaken by the labour inspectorate.

Article 9. The Committee notes the information on the `lack of prevention engineers, and the possibility of remedying this situation within the framework of a several-year plan aimed to increase capacity within the overseas departments. It further notes that the labour inspection services do not have the collaboration, on a permanent basis, of a doctor inspector at work. Consequently, if the need arises, the labour inspectorate may seek the assistance of a doctor inspector at work, who is exercising in the metropolitan areas. Recalling the report of the Government for the year 2000 in which the imminent recruitment of a doctor inspector was mentioned, and the information contained in the activity report of the Labour, Employment and Professional Training Department (DDTEFP) on two missions undertaken by the doctor inspector during the year of reporting, the Committee would be grateful if the Government would supply information on the concrete measures taken to reinforce the labour inspectorate with more technical experts, and specialists as provided for in this Article of the Convention.

Article 11. The Committee notes that new means of transportation were made available to labour inspectors. Referring to the Government's previous report in which mention was made of the inadequacy of reimbursement of travelling expenses in view of the sums actually spent by labour inspectors, and that the financial resources of the labour inspection services on mines do not entirely cover the travelling expenses incurred by helicopter, the Committee would be grateful if the Government would give precise information on the manner in which it envisages to meet the needs set out in the two above cases, and indicate any concrete measures taken to this effect.

Articles 20 and 21. The Committee notes the statistics on labour inspection visits and the results of the visits which were actually carried out, as contained in the annual activity report of the Labour, Employment and Professional Training Department (DDTEFP). It observes, however, that despite its repeated requests, no annual report of the labour inspectorate has yet been received by the ILO. Recalling its previous observation on the same point, the Committee once again requests the Government to take the necessary measures to ensure that annual labour inspection reports, containing information on the subjects enumerated in *Article 21, points (a) to (g),* are duly published and transmitted to the ILO.

French Polynesia

1. *Safety of professional divers employed in pearl farms.* Referring to its previous observation on the recruitment and training rules of underwater divers employed in pearl farms, and recalling in this regard the recommendations of the ILO Governing Body following the examination of the representation made by the World Federation of Trade Unions (WFTU) during its 265th session held in March 1996, the Committee notes with satisfaction Decision No. 2000-130 APF of 26 October 2000 on professional divers, which specifies the special measures for the protection of workers operating in a hyperbaric environment and the organization of their professional training. In this regard, the Committee notes in particular that, according to section 4(6), line 4 of the text, labour inspectors or labour monitoring officers may impose, by virtue of a formal demand, heads of undertakings or their representatives to carry out in part or in full the monitoring of technical diving rules by the competent authorities. The decision/resolution contains provisions on the minimum age to admission to training (16 years); employment of underwater divers and maximum age (40 years); compulsory continuous training; equivalence between diplomas and work categories; medical control; professional equipment and their maintenance. The Committee notes however the appeal lodged by the representative of the State before the administrative tribunal so as to annul a few provisions of this decision which are not in conformity with the general principles of labour law. The Committee would be grateful if the Government could communicate detailed information on the subject of the appeal, and if this is not possible, the decision of the administrative tribunal.

2. *Human and material resources available for labour inspection.* The Committee further notes that in respect of its previous observation concerning insufficient operating funds, investment and inspection personnel, the State has taken specific measures so as to provide the necessary funds to labour inspection, and to ensure the beginning of the first round of recruitment. The Committee expresses the hope that the Government continues to provide information on the evolution of the labour inspection system as to human and material resources in light of the provisions set forth in *Articles 3, 9, 10, 11, 12, 16, 17 and 18 of the Convention,* as well as information on the results of inspection visits carried out on pearl farms.

3. *Occupational accidents and diseases.* The Committee notes the preoccupying situation described in the annual inspection report for 2000, regarding health and safety. It notes in particular the increasing numbers of fatal occupational accidents not only in

the professional diving activity but also in the sectors of construction, and public works. In this connection, the Government has indicated that the labour inspection services are deploying efforts in collaboration with the social partners under the umbrella of the technical consultative committee so as to oversee the improvement of work conditions in the aforementioned sectors. The Committee would therefore be grateful if the Government would supply information on the issues dealt with by this body as well as on the follow-up on the views put forward.

The Committee further notes that no established system for registering and notifying occupational diseases has been set in place, and that it is the duty of each salaried worker to declare to the Social Security Fund (CPS) the onset of an occupational disease which he/she believes has contracted by providing a medical certificate. The Government pointed out that ten declarations have been registered, and indicated that the technical consultative committee has expressed its views at its meeting held on 9 January 2001, in support of extending the application of the table on professional diseases to French Polynesia. The Committee would be grateful if the Government would indicate the respective roles of the doctor at work, and the doctor inspector specialized in the field, and to supply information on the follow-up on the advice of the technical consultative committee as well as copies of any relevant texts.

4. *Contents and publication of the annual inspection report.* The Committee hopes that the next annual reports will contain information on each of the points under *Article 21*, and which will be published as provided for by *Article 20*.

Martinique

The Committee notes the Government's brief report received in November 2000, the detailed report received in September 2001 and the attached documents. Referring to its previous comments, the Committee notes with interest the progress made to strengthen the effectiveness of the labour inspectorate, namely the attachment of the labour inspection service to the labour relations department under the authority of a deputy labour director, in order to relieve inspection officials of tasks which might jeopardize their supervisory activities; the purchase of two additional vehicles for inspection activities; and the setting up of a secretariat, employing three persons, solely for the inspection service. The Committee also noted with interest that, through the development of the social dialogue in which they participated, labour inspectors contributed towards improving relations between the social partners, and they are now in a position to perform their inspection activities in the best possible conditions.

Referring to its general observation of 1999 concerning inspection activities relating to child labour, the Committee notes that the inspections carried out in 2000 did not reveal any serious violations of the provisions concerning the age of admission to employment for children, which is set at 16 years and corresponds to the compulsory school-leaving age. It notes that labour inspectors are nevertheless taking vigorous action in cooperation with the apprentice training service to ensure that enterprises which recruit minor apprentices fulfil their obligations with respect to prior medical examination.

Noting from the Government's report that the inspection service receives assistance from a medical labour inspector and that, according to the sources available to the ILO, this doctor is based in the metropolitan area and performs his duties across the territory and in other territories in accordance with demand, the Committee asks the Government to indicate the cases in which recourse is had to his services and the arrangements for doing so, as well as indicate the measures taken or envisaged to ensure adequate safety and health protection for workers in Martinique.

The Committee notes that the statistics provided by the Government concerning enterprises and workers covered, inspection visits and their results, as well as the advice supplied by the inspection service, relate to all sectors of activity, including the agricultural sector. Noting once again the failure to communicate an annual inspection report as prescribed by *Articles 20 and 21 of the Convention*, the Committee reiterates the hope that, in future, such a report will be published and communicated within the prescribed time limits.

New Caledonia

The Committee notes the Government's report and the replies to its previous comments.

The Committee notes that, under section 22 of Organic Act No. 99-209 of 19 March 1999 concerning New Caledonia, New Caledonia has competence in the field of labour law and the right to organize, as well as in labour inspection and foreigners' access to work. Under section 25, New Caledonia exercises as of 1 January 2000, the competence accruing to it under the same Act and which it did not possess under Act No. 88-1028 of 9 November 1988 concerning statutory and preparatory provisions for the self-determination of New Caledonia in 1998. The Committee would be grateful if the Government would indicate whether the implementing decree provided for by section 98 of Order No. 85-1181 of 13 November 1985, as amended, concerning the guiding principles of labour law and the organization and functioning of the labour inspectorate and the labour tribunal has been adopted and, if so, to communicate a copy thereof.

According to the Government, the exercise in shared sovereignty (as inferred from the Noumea Agreements) takes the form of the establishment of a territorial executive known as the Government of New Caledonia, which will be responsible for organizing the labour inspection services, on the one hand, and establishing a territorial team of officials composed of labour inspectors and assistant labour inspectors, on the other. The Government points out that the State has undertaken to participate in the training of such staff, and that two officials of the territorial public service who already perform the duties of assistant inspectors, or even of inspectors, as well as two trainees, have received training between 1999 and 2000.

The Committee notes Decree No. 2362 of 11 October 1999 amending the Order concerning the establishment and organization of two labour inspection departments in the territory of New Caledonia. It also notes that, according to the Government, the distribution of competences geographically and by branch of activity between the inspectors (one for the town centre, one for the south of the Noumea peninsula, and one for the Ducos industrial area) reduces the number of inspection visits. The Committee would be grateful if the Government would provide information on the way in which the budgetary resources of the labour inspection service will be determined, as well as the human, material and financial resources which are necessary for the effective discharge of its functions pursuant to *Articles 3, 10, 11, 12 and 16 of the Convention*.

The Committee notes the statistics concerning inspection visits and the results of controls for 1999 and the first half of 2000. The Committee notes with interest that, according to the Government, the recommendations concerning greater collaboration between the labour inspectorate and the judicial authority for a correct application of penalties correspond to actual practice in 1998 and 1999 and are beginning to bear fruit (heavier penalties imposed, fewer cases closed). The Government indicates that detailed statistics of labour inspections are neither published nor communicated to trade union organizations and that only general information is supplied to them at meetings of the Labour Advisory Committee. The Government points out, however, that the statistical inadequacies concerning the annual report should diminish and, with respect to occupational accidents and diseases, it will be possible to produce a full statistical study for 1999. Referring to its previous observation, the Committee hopes that the Government will not fail to implement measures to ensure that the annual inspection report containing information on each of the subjects enumerated under *Article 21, subparagraphs (a)-(g),* of the Convention is published and transmitted to the ILO by the new central labour inspection authority within the time limits prescribed by *Article 20* of the Convention.

St. Pierre and Miquelon

The Committee notes the reports of the Government received in September 2000 and August 2001. It notes that both reports contain the same information on the organization, operation, and size of the labour inspectorate with respect to the number of undertakings and workers. The Committee notes the Government's information on the numerous difficulties encountered by the labour inspection services when enforcing labour regulations. The difficulties result from insufficient human resources; legal ambiguity in the field of the application of specific texts; structural weakness in the documentation service; lack of institutional links on which the services may be based; in existing occupational medicine and the isolation of central administrations due to their far-flung geographical positions. The Government indicated that the inspection services are thereby limited to elementary emergency interventions due to the above reasons.

Under *Article 16 of the Convention* which specifies that the labour inspectorate shall inspect workplaces as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions, the Government indicates that inspection visits are only carried out on request, or upon a complaint lodged by salaried workers. The Committee however notes that, according to the Government, *Articles 17 and 18* of the Convention are applied.

With respect to the application of *Articles 20 and 21*, the Government indicates that the relevant points have been transmitted to the central administration. The Committee notes however that such information has not been published, and that it has not been transmitted to the ILO in the format of an annual report, as specified in the Convention.

The Government is requested to supply in its next report information on all the measures which have been taken or envisaged so as to improve the human and material capacity of the labour inspectorate and put an end to the administrative isolation which has been imposed thereon, in comparison to the central institutional set up. This will enable it to discharge of its duties in a more efficient manner. The Committee also requests the Government to provide available statistics on inspection visits, violations reported and penalties imposed on occupational accidents and diseases.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *France* (Guadeloupe, Réunion), *Netherlands* (Aruba, Netherlands Antilles), *United Kingdom* (Guernsey, Isle of Man, Jersey).

Convention No. 82: Social Policy (Non-Metropolitan Territories), 1947

France

French Polynesia

The Committee notes the information supplied by the Government in its report. The Committee recalls its previous observations, in which it requested the Government to take all appropriate measures to bring the territorial regulations into conformity with the requirements of the Convention, pursuant to the recommendations of the committee of the Administrative Council, put in charge of the examination of the representation made by the Federation of World Trade Unions (FSM) in virtue of article 24 of the Constitution, which alleged non-observance of this Convention by France. In its reply, the Government indicates that Order No. 686/CM of 2 June 1987 fixing the conditions for the organization and financing of professional diving, and Decision No. 87-79 AT of 12 June 1987 fixing the particular measures of protection applicable to divers, will be repealed on 1 December 2001, the date on which Decision No. 2000-130 APF of 26 October 2000 on the occupation of professional divers, on the particular measures of protection applicable to workers, who intervene in a hyperbaric environment, as well as on the organization of their vocational training, will enter into force.

The Committee notes with interest that this Decision provides a new diploma for professional diving composed of four categories, which correspond to those in force in metropolitan France. The Committee also notes that this new classification abolishes the discriminating effect of the old one, which did not recognize the qualifications of professional divers of Polynesian origin in metropolitan enterprises established on the territory of French Polynesia. Besides, the Committee notes that the new Decision introduces a system of diver training, the safety provisions of which are adapted to the requirements of professional diving, distinct and stricter than those for amateur diving. Nevertheless, the Committee notes that, according to its indications in its last report, the Government considers the text of the Decision not to be in conformity with the general principles of labour law and has accordingly referred this Decision to the competent jurisdiction for the purpose of repealing some of its provisions. In this respect, the Committee requests the Government to specify the provisions in question and to inform it of any development concerning the revision procedure of this Decision on the occupation of professional divers.

The Committee finally notes Order No. 98-5222 of 24 June 1998 on the actualization and adaptation of the labour law in territories, communities and departments overseas, which completes the Outline Law No. 86-845 of 17 July 1986 fixing the general principles of labour law in French Polynesia. It asks the Government to continue to supply, in accordance with *Part V of the report form*, information on the application of the Convention, including, for instance, extracts of official reports, copies of collective agreements or decisions of conciliatory bodies, as well as information on any practical difficulty faced in the application of the Convention.

United Kingdom

Bermuda

The Committee notes the Government's report. In reply to the Committee's previous observation, the Government indicates that the Minister responsible for labour in the new Government elected in November 1998 has determined that the voluntary system which was based on the Code of Good Industrial Relations Practice and the Guide to Good Employment Practice had not been effective. Consequently, the Government intends to adopt new employment legislation and is currently preparing a draft Bill which will be circulated to the members of the tripartite Labour Advisory Council before it is tabled before the House of Parliament. While noting the Government's statement that the new legislation is expected to address a number of labour standards, including the protection of wages as prescribed by *Articles 15 and 16 of the Convention*, the Committee hopes that the draft Bill currently under preparation will be adopted in the very near future and recalls that the Government may avail itself of the technical assistance of the ILO in this regard. It asks the Government to communicate in its next report any progress made in this matter on which the Committee has been commenting for many years.

Convention No. 87: Freedom of Association and Protection of the Right to Organise, 1948

Netherlands

Aruba

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 3 of the Convention.* In its previous comments, the Committee had asked the Government to amend or repeal section 374(a) to (c) of the Penal Code and section 82 of Ordinance No. 159 of 1964 which prohibit the right to strike by public employees under threat of imprisonment. The Committee had noted from a Government's previous report that the Department of Labour was undertaking a complete revision of existing labour legislation and that it was considering requesting ILO technical assistance in this regard. The Committee trusts that the necessary measures will be taken in the near future to bring the abovementioned provisions of the legislation into conformity with the principle of freedom of association and requests the Government to indicate, in its next report, the progress made in this regard.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, a request regarding certain points is being addressed directly to the *Netherlands* (Antilles).

Convention No. 92: Accommodation of Crews (Revised), 1949

A request regarding certain points is being addressed directly to *Denmark* (Faeroe Islands).

Convention No. 94: Labour Clauses (Public Contracts), 1949

Netherlands

Aruba

The Committee notes with regret that despite its repeated requests, no report has been submitted by the Government in the last nine years. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous comment, which read as follows:

> With reference to its previous comments, the Committee noted the Government's indication in its previous report to the effect that conditions of work of the workers employed by public contractors fall within the scope of labour legislation. The Committee points out that the application of the general labour legislation to the workers employed by public contractors does not release the Government from the obligation to take necessary steps to ensure, in accordance with *Article 2, paragraphs 1 and 2, of the Convention*, that public contracts to which the Convention applies in pursuance of *Article 1*, contain labour clauses guaranteeing the workers concerned conditions of labour (including wages) which are not less favourable than those established for work of the same character in the trade or industry concerned in the same district.
>
> The Committee therefore requests the Government to take the necessary measures to give effect to the above provisions of the Convention. When formulating these measures, please also take into account the following provisions of the Convention.
>
> *Article 2(3).* Consultation with the organizations of employers and workers concerned for the determination by the competent authority of the terms of the clauses to be included in contracts and any variation thereof.
>
> *Article 2(4).* Measures to ensure that persons tendering for contracts are aware of the terms of the labour clauses.
>
> *Article 4(a) and (b).* Measures to bring to the notice of the persons concerned the laws, regulations or other instruments giving effect to the Convention; the definition of the persons responsible for compliance with these regulations; the posting of notices at workplaces so as to inform the workers of their conditions of work; and the keeping of adequate records of the time worked by and the wages paid to the workers.
>
> *Article 5.* The sanctions applicable in the event of failure to observe the labour clauses and measures to enable the workers concerned to obtain the wages due.
>
> *Part V of the report form.* The Committee also requests the Government to supply information on the practical application of the Convention and to supply, if possible, copies of public contracts containing labour clauses, and extracts of reports by the inspection services in this regard.

United Kingdom

Bermuda

In its previous comments, the Committee had drawn the Government's attention to the need to ensure the insertion of appropriate labour clauses in public contracts in conformity with the requirements of the Convention in view of the fact that it was never made clear whether the revised administrative instructions of 29 December 1962, by which effect was given to the Convention, were still in force. In its last report, the Government states that it is in the process of drafting legislation to address employment standards and that following consultations with the social partners a bill will be prepared for submission to the legislature.

The Committee firmly hopes that the Government will make every effort to enact implementing legislation in the very near future. It also requests the Government to indicate in its next report any progress achieved in this regard.

In addition, the Committee asks the Government to supply, in accordance with *Part V of the report form*, all available information on the manner in which the Convention is applied in practice and to provide a sample of the public contracts now in use.

British Virgin Islands

The Committee regrets to observe that the Government is still unable to report substantive progress concerning the adoption of legislation giving effect to the provisions of the Convention. While noting the Government's indication that the draft bill to amend the Labour Code Ordinance, Cap. 293 is currently under review and should be resubmitted to the Legislative Council shortly, the Committee recalls that the Government has been stating for the last 27 years that the enactment of appropriate legislation for the insertion of labour clauses in public contracts is under consideration.

The Committee wishes to point out that the principal obligation for a government arising out of the ratification of an international labour Convention is to take such action as may be necessary to make effective the provisions of the ratified Convention, and to continue to ensure its application for as long as it does not decide to denounce it. The Committee therefore strongly suggests that the new legislation designed to implement the Convention should be adopted without delay and asks the Government to keep it informed of any developments in this respect.

* * *

Requests regarding certain points are being addressed directly to the following States: *France* (French Guiana, French Polynesia, Guadeloupe, Martinique, New Caledonia), *Netherlands* (Netherlands Antilles), *United Kingdom* (Anguilla).

Convention No. 95: Protection of Wages, 1949

Netherlands

Aruba

The Committee notes with regret that despite its repeated requests, no report has been communicated by the Government in the last six years. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous comment, which read as follows:

> The Committee would be grateful if the Government would provide a copy of the provisions of the Civil Code giving effect to the Convention as amended to date as well as further information on the following points.
>
> *Article 4 of the Convention*. The Committee noted the Government's indication that, under the Minimum Wage Act, the amount of any payment in kind shall be established by a ministerial decree. Please communicate copy of such ministerial decree.
>
> *Article 8(1)*. Please supply further information on the conditions under which deductions from wages may be made by virtue of section 1614(r), items a to h, as well as on the repayment of the deducted sum under section 1614(s).
>
> *Article 10*. The Committee noted the Government's indication that the worker's wage may be seized completely if it is to cover upkeep. Recalling that Article 10 of the Convention permits the attachment of wages only within prescribed limits with a view to the maintenance of the worker and his family, it requests the Government to supply information on measures taken to give effect to this provision of the Convention.
>
> *Articles 12(2), 13(1) and 14*. The Committee noted the Government's intention to take measures to ensure a final settlement of wages upon the termination of an employment contract in the manner stipulated in *Article 12(2)*; to provide that the wages may be paid on working days only *(Article 13(1))* and to ensure that the workers are informed of the conditions in respect of wages before they enter employment and when any changes take place *(Article 14(a))*. Please continue supplying in future reports information on any progress made in this connection.

* * *

Requests regarding certain points are being addressed directly to the following States: *France* (French Guiana, French Polynesia, Guadeloupe, Martinique, New Caledonia), *Netherlands* (Netherlands Antilles), *United Kingdom* (Montserrat).

Convention No. 97: Migration for Employment (Revised), 1949

Requests regarding certain points are being addressed directly to the *United Kingdom* (Guernsey, Isle of Man, Montserrat).

Convention No. 98: Right to Organise and Collective Bargaining, 1949

France

French Southern and Antarctic Territories

The Committee notes that the Government's report does not answer its previous comments. Therefore, the Committee reiterates its previous observations which read as follows:

> The Committee notes that, according to the Government, the actual situation of crews is generally that French crews are seconded to work on board vessels registered in the French Southern and Antarctic Territories (TAAF) or foreign crews are made available, and each of these two categories is covered by their respective collective agreements. The Government adds that nothing under the Overseas Labour Code precludes the conclusion of collective agreements covering either all seconded crews or only the crews recruited directly.
>
> The Committee notes, however, that the Government has not forwarded the text of the instructions of the Merchant Navy Ministry on the supervision of employment conditions in force on board vessels registered with the TAAF. The Committee, therefore, reiterates its request in this regard.
>
> The Committee also requests the Government to provide practical indications on all the collective agreements which will enter into force. Furthermore, the Committee requests the Government to indicate how seafarers are able to obtain compliance with these agreements, where necessary.

* * *

In addition, requests regarding certain points are being addressed directly to the *United Kingdom* (Guernsey, Isle of Man).

Convention No. 100: Equal Remuneration, 1951

Requests regarding certain points are being addressed directly to *Australia* (Norfolk Island), *New Zealand* (Tokelau), *United Kingdom* (Gibraltar).

Convention No. 101: Holidays with Pay (Agriculture), 1952

Netherlands

Aruba

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> *Article 7, paragraph 3, of the Convention.* The Committee would recall that this provision of the Convention calls for payment in respect of holidays to include the cash equivalent of payment in kind in cases where the normal wages include payments in kind. Please indicate whether such payments in kind are made for agricultural workers in Aruba normally and, if so, the measures taken to ensure that these workers receive the cash equivalent of such payments in respect of their holiday pay.
>
> *Article 11.* The Government is requested to include in future reports information on the approximate number of workers employed in agricultural undertakings and related

occupations in Aruba and to supply any collective agreements which might affect the conditions under which they are granted annual holidays with pay.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 105: Abolition of Forced Labour, 1957

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 106: Weekly Rest (Commerce and Offices), 1957

A request regarding certain points is being addressed directly to *Denmark* (Greenland).

Convention No. 108: Seafarers' Identity Documents, 1958

A request regarding certain points is being addressed directly to *France* (French Southern and Antarctic Territories).

Convention No. 111: Discrimination (Employment and Occupation), 1958

Requests regarding certain points are being addressed directly to *France* (French Guiana, French Southern and Antarctic Territories, Guadeloupe, Réunion).

Convention No. 115: Radiation Protection, 1960

France

French Guiana

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. *Review of maximum permissible doses and effective protection of workers in the light of new knowledge (Articles 3, paragraph 1, and 6, paragraph 2, of the Convention).* The Committee notes that the Government indicates that by the year 2000 the maximum permissible dose of exposure of workers to ionizing radiation currently in force will be replaced by a new limit of 100 mSv over five consecutive years, in accordance with the prescriptions of Directive 96/29/Euratom, adopted in May 1996. With reference to its previous observation and its 1992 general observation, the Committee recalls that the International Commission on Radiological Protection (ICRP), in Recommendations formulated in 1990, sets a limit of 20 mSv per annum averaged over five years provided that the actual dose does not exceed 50 mSv in any one year. Moreover, in 1994 the limits established by the ICRP were incorporated in the International Basic Safety Standards. The Committee hopes that the Government will soon be in a position to report the adoption of provisions in conformity with the dose limits mentioned in its 1992 general observation, in the light of current knowledge such as that contained in the 1990 ICRP Recommendations and the 1994 International Basic Safety Standards.

2. The Committee is raising certain questions in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to *France* (French Guiana) and *United Kingdom* (Jersey).

Convention No. 121: Employment Injury Benefits, 1964 [Schedule I amended in 1980]

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 122: Employment Policy, 1964

Netherlands

Aruba

The Committee notes with regret that for the eighth year in succession the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous observation, which read as follows:

> The Committee notes that the Tripartite Employment Committee, which was established to deal with the rapid changes in supply and demand on the labour market, held several meetings during the period under review. It requests the Government to continue supplying information on these meetings, their objectives, the opinions expressed and the manner in which they are taken into account. Furthermore, the Committee would be grateful if the Government would supply information on the implementation of the development strategy, particularly within the framework of the implementation of the National Development Plan for 1991-95, with an indication of the manner in which it contributes to the promotion of full employment.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Australia* (Norfolk Island), *Denmark* (Greenland), *France* (French Polynesia, New Caledonia, St. Pierre and Miquelon), *Netherlands* (Netherlands Antilles), *United Kingdom* (Isle of Man).

Convention No. 123: Minimum Age (Underground Work), 1965

Information supplied by *France* (French Guiana, Réunion, St. Pierre and Miquelon) in answer to a direct request has been noted by the Committee.

Convention No. 127: Maximum Weight, 1967

France

New Caledonia

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the Government's report and its reply to its previous comment. It notes that the provisions of the Labour Code of 1926, and particularly sections R.231 72, establish limits in the merchant marine sector for loads for which the manual transport is inevitable. The Committee also notes the Government's announcement that a draft order prepared by the Medical Labour Inspector will be submitted to the Government with a view to improving the regulations in force along the lines indicated by the Committee. In this respect, the Committee notes that the only regulation currently in force concerning the manual transportation of loads by workers is Order No. 1211 T of 19 March 1993, which gives effect to section 5 of Order No. 34/CP of 23 February 1989, which itself only establishes minimum safety and health requirements for the manual transport of loads which constitute a risk for workers, and particularly to their backs and lumbar regions. The Committee recalls that, in its previous comment, it noted the information provided by the Government, and particularly the findings of a survey of occupational physicians.
>
> *Articles 3 and 7 of the Convention.* The Committee noted the finding of this survey that in general heavy loads are only handled occasionally, except in the case of certain activities, and particularly removals and the unloading of containers loaded with imported products. Furthermore, in practice, the average weight of loads is lower than 55 kg, except in the case of the lifting of sick persons and their transport on stretchers. With regard to the criteria applied by occupational physicians to conclude that a worker is fit for the manual transport of loads over 55 kg, account is taken of Order No. 1211 T of 19 March 1993, giving effect to section 5 of Order No. 34/CP of 23 February 1989, respecting minimum safety and health requirements for the manual transport of loads which constitute a risk for workers, and particularly to their backs and lumbar regions. In this respect, the Committee noted that section 3 above remained unchanged. The absolute limit is set at 105 kg, and a worker may even be permitted to carry regularly loads heavier than 55 kg if he has been found fit by the occupational physician. While noting the findings of the above survey, the Committee therefore requested the Government to indicate the measures which had been taken or were envisaged to ensure that workers could not be required to engage in the manual transport of a load heavier than 55 kg. Once again, the Committee referred to the ILO publication *Maximum weight in lifting and carrying* (Occupational Safety and Health Series, No. 59, Geneva, 1988), in which it is indicated that 55 kg is the limit recommended from the ergonomic point of view for the admissible weight of loads to be transported *occasionally* by a male worker between 19 and 45 years of age. Similarly, it states that 15 kg is the limit recommended from an ergonomic point of view for the admissible weight of loads to be transported *occasionally* by adult women. The Committee emphasizes that it has been raising this matter for many years. It therefore hopes that the Government will take the necessary measures to give effect to the provisions of the Convention.
>
> *Articles 4 and 6.* The Committee had noted the technical devices (trolleys, lifts, fixed or travelling cranes) used by workers depending on the financial means of the enterprise to limit or facilitate the manual transport of loads. The Committee requests the Government to continue providing information on the application of this Article in practice.
>
> *Part V of the report form.* The Committee notes the information provided concerning occupational accidents. The rate of occupational accidents related to the manual handling

and transport of loads has remained relatively stable since 1995. In this respect, the Committee notes that 3 per cent of occupational accidents involved absence from work for over 24 hours and that the number of days for which benefits are paid by the CAFAT for this type of occupational accident remains stable but high, since they account for around 30 per cent of the total number of days for which benefits are paid in respect of occupational accidents. The Committee therefore requests the Government to continue providing information on the effect given in practice to the provisions respecting the maximum weight of loads which may be transported manually and, in particular, on the action taken to prevent this type of occupational accident.

The Committee therefore hopes that the Government will take the necessary measures as soon as possible for the adoption of the above draft order and to ensure that this text reflects the points raised by the Committee in its comments and to provide effective protection for workers called upon to lift and transport loads manually.

Convention No. 129: Labour Inspection (Agriculture), 1969

France

French Guiana

Labour inspection staff in agriculture and coverage of needs. The Committee notes in the report of the Government that the two branches of the inspectorate that operate in the territory are as competent in the commercial and industrial sectors as in the agricultural sector. It notes that, according to the Government, taking account of the some 4,400 enterprises in the sector, one of these branches could specialize in labour inspection in agriculture. The Committee notes that the inspection staff in the two branches includes two inspectors, four controllers and three administrative agents. The Government indicates that a rationalization of the inspectorate with greater means aims to substantially increase the enforcement actions targeting agricultural enterprises. Referring to its previous comments in which it related that only one per cent of the agricultural enterprises were inspected, and noting that the inspectorate possessed only a single all-terrain vehicle and was expecting another one soon, the Committee hopes that the Government will not fail to take in the very near future necessary measures to improve the means of labour inspection in agriculture. It asks the Government to provide information on the development of the situation as it concerns the question of specialization of one branch of the inspectorate in agriculture and that of the number and frequency of inspection visits to enterprises liable to inspection.

Publication and communication to the ILO of the annual inspection report. Noting that, according to the Government, an annual report is regularly prepared, the Committee notes nevertheless that such a report has not been communicated to the ILO as prescribed by *Article 26 of the Convention.* Recalling furthermore that according to *paragraphs 2 and 3* of this Article, the annual inspection report must be published and a copy communicated to the ILO, and it must contain information concerning each of the *points (a) to (g) of Article 27*, the Committee hopes that the Government will not fail to ensure that each of these provisions of the Convention will be given effect.

Martinique

The Committee notes the Government's detailed report, and the partial information in reply to its previous observation.

1. *Publication of an annual inspection report and its communication.* The Government indicates that it can not always provide annual statistical information on labour inspection activities especially in agriculture. However, the Committee notes with interest that, according to the Government, labour inspectors have received training in the field of computer applications in the course of the year 2001, which allows them to quantify their work in the agricultural sector without creating additional tasks, nor compromise the discharge of their primary duties. The Government further indicates that, at the same time, rational exploitation of the entirety of information sources which is available to the labour inspection services has generated a few indicators especially on occupational accidents, and declarations of occupational diseases. Strengthening the coordination of the labour inspection services with other services, which are holders of useful information on inspection measures was also envisaged. The Committee therefore hopes that the Government will be able to publish an annual inspection report containing specific information on agriculture, and which covers the subjects enumerated under *Article 27 of the Convention*, and transmit a copy thereof to the ILO.

2. *Presence of women in the labour inspectorate and monitoring of the conditions of life of workers in agricultural undertakings.* The Committee notes with interest the balanced gender distribution among the total number of workers employed by the labour inspection services. It further notes that priority measures were taken in the first three months of 2001, aimed to monitor the accommodation of seasonal workers, mainly of foreign origin, who are employed in sugar cane cutting. The Government indicates that the visits it undertook have revealed a large number of violations of the safety and health regulations, and that the results of the requests respecting the bringing into conformity with the provisions of the Convention, undertaken by enforcement officers will condition the issuing of recruitment permits to faltering undertakings in the next season. The Committee would be grateful if the Government would indicate, as specified in *Article 10*, the special duties assigned to men and women inspectors in the agricultural sector, and to provide information on the follow-up to the abovementioned violations, and the results thereof on the issuing of recruitment permits for workers.

3. *Labour inspection and inspection of child labour.* With reference to its previous observation, the Committee notes that the Government has not transmitted the requested information respecting the monitoring activities of labour inspection with respect to child labour in agriculture. Therefore, the Committee requests the Government once again to supply precise information on this point, and to indicate whether the monitoring measures taken on the employment of children under the age of 16 in metropolitan France, are being equally applied in Martinique.

Convention No. 131: Minimum Wage Fixing, 1970

Requests regarding certain points are being addressed directly to the following States: *Australia* (Norfolk Island), *France* (Guadeloupe, Saint Pierre and Miquelon), *Netherlands* (Aruba).

Convention No. 133: Accommodation of Crews (Supplementary Provisions), 1970

Requests regarding certain points are being addressed directly to *France* (Guadeloupe, Martinique, French Southern and Antarctic Territories), *United Kingdom* (Bermuda).

Convention No. 134: Prevention of Accidents (Seafarers), 1970

France

French Southern and Antarctic Territories

The Committee notes with regret that the 1999 and 2001 reports of the Government do not contain replies to its previous comments. It must therefore repeat its previous observation which read as follows:

> The Committee notes the observation of the French Democratic Federation of Labour (CFDT), communicated by the Government in October 1996, to the effect that national legislation does not comply with a number of the provisions of international labour Conventions, including Convention No. 134. It notes that this observation does not indicate precisely the provisions which are not in conformity with the Convention.
>
> The Committee notes the Government's statement to the effect that since Act No. 83-581 of 5 July 1983 relating to the protection of human life at sea, lodging on board ship and the prevention of pollution applies to all vessels registered in the French Republic, which includes the French Southern and Antarctic Territory (TAAF), there is therefore no difference in treatment between vessels registered in metropolitan France, in an overseas department, in the territorial community of Saint Pierre and Miquelon, in an overseas territory or in the French Southern and Antarctic Territory in regard to the application of this instrument and the regulations based on it. It requests the Government to refer to its general observation.
>
> The Committee requests the Government to provide detailed information indicating the manner in which the Convention is applied to seafarers engaged on vessels registered in the TAAF, indicating in particular the measures taken to ensure that:
>
> - all occupational accidents to seafarers are reported, comprehensive statistics of such accidents are kept and analysed, and accidents resulting in loss of life or serious personal injury are investigated *(Article 2 of the Convention)*;
> - research is undertaken into general trends in occupational accidents to seafarers and the particular hazards of maritime employment *(Article 3)*;
> - provisions concerning the prevention of accidents to seafarers are laid down by laws or other means containing references to any general provisions applicable to the work of seafarers and, in particular, to the structural features of ships, machinery, special safety measures on and below deck, loading and unloading equipment, fire prevention, anchors, chains and lines, dangerous cargo and ballast, and personal protective equipment *(Article 4)*;
> - the provisions concerning the prevention of occupational accidents to seafarers specify clearly the obligation on shipowners, seafarers and others concerned to comply with them *(Article 5)*;

- the proper application of measures to prevent accidents to seafarers is ensured by means of adequate inspection or otherwise and copies or summaries of the relevant provisions are brought to the attention of seafarers *(Article 6)*;
- provision shall be made for the appointment of a suitable person or suitable persons or of a suitable committee responsible, under the Master, for accident prevention *(Article 7)*;
- programmes for the prevention of occupational accidents to seafarers are established and implemented with the participation of shipowners, seafarers or their representatives, and joint accident prevention committees or ad hoc working parties are established *(Article 8)*; and
- the necessary instructions concerning particular hazards of maritime employment are brought to the attention of all seafarers *(Article 9)*.

The Committee once again hopes that the Government will take all possible measures in the near future.

[The Government is asked to report in detail in 2002.]

Convention No. 135: Workers' Representatives, 1971

A request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 137: Dock Work, 1973

Netherlands

Aruba

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee takes note of the adoption of the revised Stevedoring Ordinance No. 49 of 1991. It would be grateful if the Government would supply, in its next report, additional information on the following points.
>
> *Article 1, paragraph 2, of the Convention.* The Government indicates in its previous report received in 1991 that it usually communicates with employers' and workers' organizations on matters concerning the definitions of "dockworkers" and "dock work". Please describe in more detail the arrangements made for revising these definitions in the light of new methods of cargo handling and their effect on the various dockworker occupations, as required under this Article.
>
> *Articles 3 and 4.* The Government indicated in its previous report that national legislation in force (section 2(j) of the 1946 Act) provided for the registration for all occupational categories of dockworkers. The Committee observes that the new Ordinance No. 49 of 1991 does not contain a provision of that kind. It would be grateful if the Government would clarify whether registers are established and maintained for all occupational categories of dockworkers and, if it is the case, whether arrangements have been made for the periodic review of the strength of such registers. Please also describe, in the latter case, the measures instituted to prevent or minimize detrimental effects on dockworkers when a reduction in the strength of a register becomes necessary.

> *Article 6.* The Committee notes the provisions of Ordinance No. 49 relating to safety, health and welfare of dockworkers. It observes, however, that the Ordinance contains no provisions concerning vocational training of dockworkers. The Committee therefore asks the Government to indicate whether any measures have been taken with a view to ensure that appropriate vocational training provisions apply to dockworkers, in accordance with this Article.
>
> *Part V of the report form.* The Committee would be grateful if the Government would continue to supply information concerning the practical application of the Convention, including for instance extracts from reports of the competent authorities and particulars on the number of dockworkers on any registers maintained under *Article 3*, and of variations in their numbers, if available.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 138: Minimum Age, 1973

Netherlands

Aruba

The Committee notes with regret that the Government's report has not been received. It is therefore bound to repeat its previous observation on the following matters:

> The Committee noted the observations of the Teachers' Union of Aruba (SIMAR) attached to the report. It noted that SIMAR pointed out that minors are seen in supermarkets during school hours performing labour and that it urges the Government to take necessary measures in order to avoid this undesirable situation. It also indicated the trend of minors in secondary school working after school. In addition, the SIMAR also proposed that the Government introduce an Ordinance on minimum wages for those under the age of 18 in order to avoid abuse of the minors by employers. In the absence of the Government's comments on these observations, the Committee requests the Government to reply to the points raised by the SIMAR.

* * *

In addition, a request regarding certain points is being addressed directly to the *Netherlands* (Aruba).

Convention No. 140: Paid Educational Leave, 1974

Netherlands

Aruba

The Committee notes that the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the points raised in its 1998 direct request, which read as follows:

> The Committee notes that the Government states in its second report on the application of the Convention that no new measures have been adopted to give effect to these provisions. It recalls that, in this regard, under *Article 5 of the Convention*, the means

by which provision is made for the granting of paid educational leave may include national laws and regulations, collective agreements, arbitration awards, or such other means as may be consistent with national practice. The Committee requests the Government to provide information in its next report in respect of the measures taken or envisaged to this effect. The Committee trusts that this report will also contain detailed information on the points raised in its previous direct request which were in respect of the following points:

> The Committee notes the concise information supplied by the Government in its first report on the application of the Convention. It notes the provisions applying to public servants, under which educational leave is granted for the purpose of passing examinations and officials are granted sufficient income during study assignments abroad. It notes that the period spent on such study assignments may or may not qualify as service for the assessment of pension claims, entitlement to leave and pay increments, depending on the degree to which the interests of the service are affected by the study assignment. The Committee recalls in this connection that under *Article 11* of the Convention a period of paid educational leave shall be assimilated to a period of effective service for the purpose of establishing claims to social benefits and other rights deriving from the employment relation.
>
> With regard to the private sector, the Government indicates in its report that paid educational leave in this sector is regulated through collective bargaining and collective agreements. The Committee would be grateful if in its second report the Government would provide detailed information on collective agreements which provide for the granting of paid educational leave. Please supply also relevant extracts of such agreements.
>
> More generally, the Committee asks the Government to provide full information in its second report on the effect given to each provision of the Convention under each question in the report form. Please specify, in particular, how the policy to promote the granting of paid educational leave for the purposes laid down in *Articles 2 and 3* was formulated in association with employers' and workers' organizations and education and training establishments, in accordance with *Article 6*.

* * *

In addition, requests regarding certain points are being addressed directly to the *United Kingdom* (Anguilla, Jersey).

Convention No. 142: Human Resources Development, 1975

Requests regarding certain points are being addressed directly to *France* (French Guiana, Martinique).

Convention No. 144: Tripartite Consultation (International Labour Standards), 1976

Netherlands

Aruba

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the Government's report and the information supplied in reply to its previous observation. It notes in particular that the reorganization of the Labour Department is not yet complete. The Government also indicates, without giving further

details, that the ILO Matters Tripartite Committee in Aruba met again in March 1999, having interrupted its work in 1998. It also states that the 1996 decision of the Netherlands to request denunciation of Conventions Nos. 129 and 141 for Aruba was not taken in consultation with employers' and workers' representative organizations, since the Tripartite Committee mentioned above was not active at that time. The Committee wishes to recall, in this respect, that proposals regarding the denunciation of ratified Conventions must, under *Article 5, paragraph 1(e), of the Convention,* be subject to consultations, and that under *Article 2, paragraph 1,* the procedures must ensure "effective" consultations. In its 1982 General Survey on tripartite consultation, the Committee specified that effective consultations were consultations which enabled employers' and workers' organizations to have a useful say in the questions set out in *Article 5, paragraph 1,* that is, consultations which may influence the decisions taken by the Government (paragraph 44). In its most recent General Survey on tripartite consultation the Committee has again indicated that in order to be effective the consultations must take place prior to the decisions by the Government (paragraph 31). Having noted the Government's report on the application of Convention No. 129, the Committee strongly regrets that the workers' representative organizations were only able to voice their reservations regarding denunciation of the acceptance of the Convention's obligations on behalf of Aruba by submitting observations on the report on the application of the Convention which was transmitted to them by the Government in application of articles 23, paragraph 2, and 35, paragraph 6, of the ILO Constitution.

The Committee trusts that the Government will take due account of its comments, so as to ensure that, in future, the questions regarding ILO activities under *Article 5, paragraph 1,* of the Convention, are subject to effective consultations, in particular within the abovementioned Tripartite Committee, and that it will supply all the information requested in the report form under *Articles 5 and 6* and also *Parts V and VI.*

* * *

In addition, requests regarding certain points are being addressed directly to *France* (French Guiana, French Polynesia, New Caledonia, Réunion).

Convention No. 145: Continuity of Employment (Seafarers), 1976

Netherlands

Aruba

The Committee again notes with regret that since 1994 the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its comments formulated in December 1995, which read as follows:

> The Committee recalls the Government's statement to the effect that there are no merchant shipping undertakings in Aruba. It hopes that the Government will not fail to supply a detailed report on the application of the Convention in conformity with the report form, which will include, in particular, information on the following points:
>
> *Article 2, paragraphs 1 and 2, of the Convention.* Please describe measures taken to encourage all concerned to provide continuous or regular employment for seafarers. Please indicate the minimum periods of employment or the minimum income or monetary allowance assured to seafarers and describe the manner in which they are assured.

Part III of the report form. Please indicate the authority or authorities responsible for the application of the laws and regulations mentioned in the Government's first report received in 1991.

Part V of the report form. Please give a general appreciation of the manner in which the Convention is applied in Aruba, including for instance extracts from reports of the authority or authorities referred to under Part III above and, if available, particulars of the number of seafarers and of variations in their number during the period covered by the report.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to *France* (French Guiana, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon).

Convention No. 149: Nursing Personnel, 1977

Requests regarding certain points are being addressed directly to *France* (French Guiana, French Polynesia, Réunion, St. Pierre and Miquelon).

Convention No. 151: Labour Relations (Public Service), 1978

A request regarding certain points is being addressed directly to the *United Kingdom* (Isle of Man).

III. Observations concerning the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labour Conference

(article 19 of the Constitution)

Afghanistan

The Committee trusts that, when the national circumstances permit, the Government will provide information with regard to the submission to the competent authorities of the instruments adopted by the Conference since 1985 (71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions).

Albania

The Committee notes with interest that the ratification of Convention No. 182 was registered on 2 August 2001. It further notes that the Ministry of Foreign Affairs was requested to follow the relevant procedures for ratification, by the Albanian Parliament, of Convention No. 183. The Committee trusts that the Government will soon provide the indications required by the Memorandum of 1980 on the submission to the People's Assembly of the Republic of Albania of the instruments adopted by the Conference at all pending sessions (i.e. 79th, 80th, 81st, 82nd, 83rd, 84th, 86th and 88th Sessions).

Algeria

The Committee notes with interest that the ratification of Convention No. 182 was registered on 2 February 2001. It also notes the new information provided by the Government in September 2001 indicating that detailed reports concerning the Conventions and Recommendations adopted at the 83rd and 84th Sessions had been transmitted to the Ministry of Foreign Affairs for communication to the General Secretariat of the Government and submission to the officers of the National People's Assembly. The Committee hopes that the Government will soon be in a position to indicate that all instruments adopted at the 83rd, 84th (Conventions Nos. 178, 179 and 180, Recommendations Nos. 185, 186 and 187 and the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976), 85th, 86th and 88th Sessions of the Conference have been submitted to the People's National Assembly.

Angola

The Committee notes with interest that the ratification of Convention No. 182 was registered on 13 June 2001. It also notes the statement by a Government representative to the Conference Committee in June 2001 indicating that information on the submission to the National Assembly of the instruments adopted by the Conference for several years will be provided to the ILO when the submission procedure has been completed. It also notes the steps taken in relation to the Council of Ministers with a view to the submission to the National Assembly of the Conventions adopted since 1991. It recalls its previous observations and once again requests the Government to provide all the information required in the questionnaire at the end of the Memorandum of 1980 on the submission to the National Assembly of all the instruments (Conventions, Recommendations and Protocols) adopted by the Conference since 1991 (78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th and 88th Sessions).

Armenia

1. The Committee notes with regret that the Government has not replied to its previous observations. It hopes that the Government will shortly indicate that the instruments adopted by the Conference since 1993 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions) have been submitted to the competent authorities.

2. The Committee further notes that Armenia has been a Member of the Organization since 26 November 1992. It recalls that in accordance with article 19 of the Constitution of the International Labour Organization, every Member undertakes to bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action. The Governing Body of the International Labour Office has adopted a *Memorandum on the obligation to submit Conventions and Recommendations to the competent authorities*, requesting all the information required by the questionnaire at the end of the Memorandum regarding the competent authority, the date on which the instruments were submitted and any government proposals on measures which might be taken regarding the instruments.

3. The Committee points out, as did the Conference Committee, that the Office's assistance may be sought in complying with this important constitutional obligation.

Bangladesh

1. The Committee recalls that the Tripartite Consultative Council has recommended the ratification of Convention No. 182 and trusts that the Government will soon provide the other information required on the submission to the competent authority of the instruments adopted by the Conference at its 87th Session. Please also provide the pertinent information with regard to the instruments adopted at the 88th Session (May-June 2000).

2. The Committee hopes that the Government will soon provide information on the submission to the Parliamentary Committee of the remaining instruments adopted at the 77th Session (Convention No. 170 and Recommendation No. 177), the 79th Session (Convention No. 173 and Recommendation No. 180), the 84th Session (Convention No. 179, Recommendations Nos. 185, 186, 187) and the 85th Session (Recommendation No. 188) as well as all of the other instruments adopted at the 81st, 82nd, 83rd and 86th Sessions.

Belize

The Committee recalls that it noted with interest that the ratification of Convention No. 182 was registered on 6 March 2000. It again notes the statement by a Government representative at the Conference Committee in June 2001 indicating that his country was committed to working on outstanding submissions. The Committee hopes that the Government will take measures in order to fulfil its constitutional obligation to submit and will supply information on the submission to the competent authorities of the instruments adopted by the Conference at 11 sessions held between 1990 and 2000 (77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th and 88th Sessions).

Bolivia

The Committee notes that the Government representative at the Conference Committee in June 2001 stated Bolivia's wish to comply strictly with its commitments under the ILO Constitution, and regrets to note that the Government has not provided information on the submission to the competent authorities of the instruments adopted by the Conference since 1990 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions).

Bosnia and Herzegovina

The Committee notes with interest that the ratification of Convention No. 182 was registered on 5 October 2001. It recalls that the Government has not supplied information on the submission to the competent authorities of the other instruments adopted by the Conference since 1990 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th and 88th Sessions). It also notes that, as stated by the Government representative at the Conference Committee (June 2001), the long period of failure to submit reports to the competent authorities was due to the consequences of the war and the desperate economic and social situation of the country. In the light of these historical circumstances, the Committee invites the Government, with assistance of the Office, to study ways in which the submission of the above instruments could be submitted to the competent authorities in the near future so as to ensure compliance with this important constitutional obligation.

Brazil

The Committee recalls that it noted with interest that the ratification of Convention No. 182 was registered on 2 February 2000. The Government had provided information on the measures envisaged for the submission of Recommendation No. 189 to the National Congress. The Committee hopes that the Government will continue providing information on the consultations held and the measures taken for the submission to the National Congress of Conventions Nos. 128 to 130, 149 to 151, 156 and 157, as well as the other instruments adopted at the 52nd, 78th, 79th, 81st, 82nd, 83rd, 84th, 85th, 86th and 88th Sessions of the Conference.

Burkina Faso

1. The Committee notes with interest that the ratification of Convention No. 182 was registered on 25 July 2001. It refers to its observation of 2000 and asks the Government to send the information required on the submission to Parliament of the instruments adopted at the 82nd, 83rd, 84th, 85th, 86th and 88th Sessions of the Conference.

2. Please indicate also the representative organizations of employers and workers to which copies of the information sent to the Office were communicated, pursuant to

article 23, paragraph 2, of the ILO Constitution (see *point V of the questionnaire* at the end of the Memorandum of 1980).

Burundi

In its observation of 2000, the Committee noted the reports on the submission to the President of the Republic, on 20 September 2000, of the Conventions and Protocols adopted by the Conference at its 82nd, 83rd, 84th and 85th Sessions, as well as the instruments on the worst forms of child labour, adopted at its 87th Session. The recommendations adopted at the 82nd, 83rd and 84th Sessions of the Conference, and Recommendation No. 189, adopted at the 86th Session, were not mentioned in the reports on submission. It requests the Government to pursue its efforts to secure full compliance with the obligation to submit instruments under article 19 of the ILO Constitution and hopes to receive information on the submission to the National Assembly of the instruments adopted by the Conference since 1995 (82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions).

Cambodia

1. The Committee once again notes the statement by the Government representative at the Conference Committee (June 2001) indicating that his country undertakes to make every effort to meet the deadlines for submission, in so far as possible in view of the current situation in Cambodia. It further notes the detailed information provided by the Government in relation to the examination of the instruments on the worst forms of child labour adopted by the Conference at its 87th Session (June 1999).

2. The Committee refers to its previous comments and recalls that the instruments adopted by the Conference at its 55th (Maritime) Session, October 1970, and at the sessions held from June 1973 to June 1994 (58th (Convention No. 137 and Recommendation No. 145), 59th to 63rd, 64th (Convention No. 151 and Recommendation No. 159), 65th to 81st Sessions) have not been submitted to the competent authorities. In the light of the historical circumstances of the country, the Committee once again invites the Government, with assistance from the Office, to study ways in which the submission to the abovementioned instruments to Parliament could be carried out so as to ensure compliance with this important constitutional obligation.

3. The Committee reiterates its hope that the Government will soon be in a position to transmit the other information required by the questionnaire at the end of the 1980 Memorandum regarding the submission to the National Assembly of the instruments adopted from the 82nd to the 88th Sessions of the Conference, held from 1995 to 2000.

Cameroon

The Committee notes the statement made by the Government representative of the Conference Committee (June 2001) to the effect that all the instruments not yet submitted are in the process of being examined by a committee. It notes that no information has been received concerning the submission to the National Assembly of the instruments adopted by the Conference from 1983 to 2000, namely at the 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions. It again urges the Government to spare no effort in meeting the constitutional requirement to submit instruments and hopes that technical assistance from the Office will enable the Government to eliminate this large backlog.

Cape Verde

The Committee notes with regret that the Government has provided no information on the submission to the competent authorities of the instruments adopted by the Conference since 1995 (82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions). It reminds the Government that it may seek assistance from the Office in order to fulfil this important constitutional obligation.

Central African Republic

The Committee recalls that it noted with interest that the ratification of Convention No. 182 was registered on 28 June 2000. It notes that submission to the National Assembly of instruments adopted by the Conference has not been possible for many years, particularly since 1988 (75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th and 88th Sessions). The Committee hopes that the Government will take appropriate steps to bring itself up to date with submission to the National Assembly of instruments adopted by the Conference. It reminds the Government, as did the Conference Committee, that it may seek technical assistance from the Office in order to fulfil this important constitutional obligation.

Chad

1. The Committee recalls that it noted with interest that the ratification of Convention No. 182 was registered on 6 November 2000. The Government also indicated previously that the instruments adopted by the Conference at its 84th, 85th and 86th Sessions were submitted at the same time as those adopted at the 87th Session. It again asks the Government to provide the other information required by the Memorandum of 1980 on the proposals made by the Government, any decision taken by the National Assembly and the organizations of employers and workers to which the information sent to the Director-General has been communicated, in respect of the instruments adopted at the 84th, 85th and 86th Sessions (*points II(b) and (c), III and V of the questionnaire* at the end of the Memorandum of 1980).

2. The Committee hopes that the Government will pursue its efforts to eliminate the backlog of submissions required under the ILO Constitution and that it will send information on the submission to the National Assembly of the instruments adopted at the sessions of the Conference held between 1993 and 1996 (80th, 81st, 82nd and 83rd Sessions).

3. Please also state whether the instruments on maternity protection adopted at the 88th Session (May-June 2000) have been submitted to the National Assembly.

Colombia

The Committee notes again with regret that the Government has not communicated any new information regarding the procedures to submit to the legislature the instruments adopted at the following sessions of the Conference: 75th (Convention No. 168), 79th (Convention No. 173), 81st (Recommendation No. 182), 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions. The Committee trusts that the Government will shortly communicate the information requested in the questionnaire at the end of the Memorandum of 1980 concerning the submission to the National Congress of the instruments adopted in the aforementioned sessions of the Conference.

Comoros

The Committee notes the preliminary information concerning submission provided by the Government in October 2001 indicating that, at the first meeting of the Higher Council for Labour and Employment (September 2001), organized with the Office's technical and material support, the Government was informed that the social partners supported the ratification of the fundamental Conventions. These Conventions will be submitted to the Legislative Council in the near future with a view to ratification. The Government requested the Office's technical and material assistance for the preparation of a submission document. In these circumstances, the Committee hopes that the Office will be able to provide the necessary assistance and that the Government will soon provide the information required in the Memorandum of 1980 on the submission to the legislative body of all the instruments adopted by the Conference since 1992 (at its 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions).

Congo

1. The Committee notes the statement made by the Government representative before the Conference Committee (June 2001) recalling that several wars have taken place in Congo, in particular between 1992 and 1998. The Government is attempting to eliminate the backlog accumulated: the ratifications of Conventions Nos. 98, 100, 105, 111 and 138 were registered in November 1998. Other Conventions will shortly be submitted to the competent authorities. The Committee again expresses the hope that the Government will be able to report progress, particularly with regard to the submission to the competent authorities of the instruments adopted at the 54th (Recommendations Nos. 135 and 136), 55th (Recommendations Nos. 137, 138, 139, 140, 141 and 142), 58th (Convention No. 137 and Recommendation No. 145), 60th (Conventions Nos. 141 and 143, Recommendations Nos. 149, 150 and 151), 61st (Recommendation No. 152), 62nd, 63rd (Recommendation No. 156), 67th (Recommendations Nos. 163, 164 and 165), 68th (Convention No. 157 and Recommendations Nos. 167 and 168), 69th, 70th, 71st (Recommendations Nos. 170 and 171), 72nd, 74th, 75th (Recommendations Nos. 175 and 176), and between 1990 and 2000 (77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions of the Conference).

2. The Committee recalls, as did the Conference Committee, that the Government may seek the Office's assistance in fulfilling this important constitutional obligation.

Costa Rica

The Committee notes with interest that the ratification of Convention No. 182 was registered on 10 September 2001. The Committee notes that Convention No. 174 was submitted to the Legislative Assembly on 24 May 1996. The Government has also provided information on the submission to the Legislative Assembly of Recommendations Nos. 179, 180, 181, 183 and of the Protocol of 1995, as well as the instruments adopted at the 88th Session of the Conference. The Committee welcomes this progress and hopes that the Government will soon be able to provide information on the submission to the Legislative Assembly of the pending Conventions adopted at the 83rd (Convention No. 177), 84th (Conventions Nos. 178, 179 and 180) and 85th (Convention No. 181) Sessions of the Conference.

Democratic Republic of the Congo

The Committee notes with interest that the ratification of Conventions Nos. 87, 105, 111, 135, 138, 144 and 182 were registered on 20 June 2001. With reference to its previous comments, it requests the Government to provide the information required by the questionnaire at the end of the Memorandum of 1980 on the submission to the competent authorities of the instruments adopted at the 83rd, 84th, 85th, 86th and 88th Sessions of the Conference.

Djibouti

The Committee has noted a draft communication (dated 21 January 2001) from the Ministry of Employment and National Solidarity to the Council of Ministers concerning the submission to the National Assembly of instruments outstanding and the ratification of a number of Conventions. However, the Committee has received no confirmation that the instruments outstanding have actually been submitted. Furthermore, it reminds the Government that information on the obligation to submit is still pending in respect of the instruments adopted at the 66th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 84th, 85th, 86th, 87th and 88th Sessions of the Conference. The Committee hopes that the Government will send the information required by the questionnaire at the end of the Memorandum of 1980 on the submission to the National Assembly of the instruments referred to. The Committee reminds the Government, as did the Conference Committee, that it may seek technical assistance from the competent units of the Office.

Dominica

The Committee notes with interest that the ratification of Convention No. 182 was registered on 4 January 2001. It recalls that the instruments adopted at the 80th, 81st, 82nd and 83rd Sessions were submitted only to Cabinet and the Government had decided against ratification. Therefore, the Committee recalls again that the competent national authority to which the instruments adopted by the International Labour Conference should normally be submitted is the legislature (Part I of the Memorandum of 1980). It reiterates its hope that the Government will announce soon that the instruments adopted by the Conference since 1993 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th and 88th Sessions) have been submitted to the competent authorities, in the sense of article 19 of the Constitution.

El Salvador

In its observation of 2000, the Committee noted with interest that the ratification of Conventions Nos. 100, 155, 156 and 182 had been registered on 12 October 2000. The Committee refers to its previous comments and points out once again that, in order to meet the obligation set out in the ILO Constitution to submit instruments adopted by the Conference to the competent authorities, it is necessary for the Congress of the Republic of El Salvador to be in a position to reach a decision on instruments submitted to it. Consequently, the Committee trusts that the Government will pursue its efforts to ensure that the instruments adopted at the 62nd, 65th, 66th, 68th, 70th, 82nd, 83rd, 84th, 85th, 86th and 88th Sessions of the Conference, and the remaining instruments of the 63rd (Convention No. 148 and Recommendations Nos. 156 and 157), 64th (Convention No. 151 and Recommendations Nos. 158 and 159), 67th (Convention No. 154 and Recommendation No. 163) and 69th (Recommendation No. 167) Sessions are submitted to the Congress of the Republic, and will provide the information pertaining to them required by the Memorandum of 1980.

Equatorial Guinea

The Committee notes with interest that the ratification of Conventions Nos. 29, 87, 98, 105, 111 and 182 was registered on 9 August 2001. The Committee refers to its previous comments and asks the Government to provide information on the submission to the competent authorities of the instruments adopted by the Conference at is 80th, 81st, 82nd, 83rd, 85th, 86th and 88th Sessions.

Eritrea

In its reply to the 2000 observation, the Government states that the assistance of the Office is required in order to comply with the obligation to submit the instruments to the competent authorities. The Government also recalls that Eritrea has ratified seven fundamental Conventions and submitted for ratification Convention No. 182. The Committee trusts that the Office will provide the desired assistance and that the Government will be soon in a position to supply the information required by the questionnaire at the end of the Memorandum of 1980 on the submission to the competent authorities of the instruments adopted by the Conference since 1994 (81st, 82nd, 83rd, 84th, 85th, 86th and 88th Sessions). Please also provide the remaining information on the submission to the competent authorities with regard the instruments on the worst forms of child labour adopted by the Conference at its 87th Session.

Fiji

The Committee again asks the Government to communicate the information concerning the submission to the competent authorities of the instruments adopted by the Conference since 1993 (83rd, 84th, 85th, 86th, 87th and 88th Sessions), as required by the questionnaire at the end of the Memorandum of 1980.

Gabon

The Committee notes with interest that the ratification of Convention No. 182 was registered on 28 March 2001. Further to its previous comments, the Committee asks the

Government to provide the information required by the Memorandum of 1980 concerning the submission to Parliament of the instruments adopted at the 74th, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions of the Conference.

Georgia

1. The Committee asks the Government to indicate if the instruments adopted by the Conference at its 80th, 81st, 82nd, 83rd, 84th, 85th, 87th and 88th Sessions have been submitted to Parliament.

2. With reference to its direct request of 1999, the Committee requests the Government to provide the information required under *points I and II(a) of the questionnaire* at the end of the Memorandum of 1980 with respect to the nature of the competent authorities to which Recommendation No. 189 (86th Session) was submitted.

Grenada

The Committee notes with regret that the Government has not replied to its comments for many years. It hopes the Government will indicate shortly that the instruments adopted by the Conference since 1994 (at the 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions) have been submitted to the competent authorities.

Guatemala

1. The Committee notes with interest that the ratification of Convention No. 182 was registered on 11 October 2001. It further notes the information provided by the Government in September 2001 concerning the consultations held with employers' and workers' organizations on the submission of the instruments adopted at the 88th Session of the Conference.

2. The Committee refers to its previous comments and recalls that information has not been received on the submission to the Congress of the Republic of the instruments adopted at the 74th Session (Maritime, October 1987), the two instruments adopted at the 75th Session (June 1988) (Convention No. 168 and Recommendation No. 176), 77th Session (June 1990) (Conventions Nos. 170 and 171, Recommendations Nos. 177 and 178, the Protocol of 1990), 78th Session (June 1991) (Convention No. 172), 80th Session (June 1993) (Convention No. 174), 81st Session (June 1994) (Convention No. 175), 84th Session (Maritime, October 1996) (Conventions Nos. 178 and 180, Recommendations Nos. 185, 186 and 187, the Protocol of 1996), 85th Session (June 1997) (Recommendation No. 188) and 86th Session (June 1998) (Recommendation No. 189).

3. The Committee therefore hopes that the Government will be in a position in the near future to provide information on the submission of all of the above instruments to the Congress of the Republic.

Guinea

The Committee notes with regret that the Government has not replied to its previous comments. It asks the Government to provide the information required by the

Memorandum of 1980 in respect of the submission to the National Assembly of the instruments adopted at the 84th, 85th, 86th, 87th and 88th Sessions of the Conference.

Guinea-Bissau

1. The Committee notes with interest that certain Conventions and Recommendations (Conventions Nos. 173, 174, 175, 176, 181 and 182, as well as Recommendation No. 190) were submitted to the People's National Assembly on 15 October 2001. It hopes that the Government will continue its efforts to fulfil this important constitutional obligation and that it will also be in a position to inform the Committee of the submission to the People's National Assembly of the instruments which have not yet been submitted (79th, 80th, 81st and 85th Sessions; Recommendations Nos. 180, 181 and 182; and all the instruments adopted at the 82nd, 83rd, 84th, 86th and 88th Sessions).

2. The Committee also requests the Government to indicate, as called for in the questionnaire at the end of the Memorandum of 1980, the decisions taken by the People's National Assembly concerning the instruments submitted, and the representative organizations of employers and workers to which the information addressed to the Director-General was communicated *(points III and V of the questionnaire)*.

Haiti

1. The Committee notes with regret that the Government has not provided information on the submission to the competent authorities of the instruments adopted by the Conference. It recalls that the instruments in respect of which the Government has not provided information on the submission to the competent authorities are the following:

(a) the remaining instruments from the 67th Session (Conventions Nos. 154 and 155 and Recommendations Nos. 163 and 164);

(b) the instruments adopted at the 68th Session;

(c) the remaining instruments adopted at the 75th Session (Convention No. 168 and Recommendations Nos. 175 and 176); and

(d) all the instruments adopted from 1989 to 2000 (76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions of the Conference).

2. The Committee once again recalls, in the same way as the Conference Committee, that it is possible to seek the Office's assistance with a view to fulfilling this important constitutional obligation.

Honduras

1. The Committee notes with interest that, on 31 May 2001, the instruments adopted by the Conference from 1990 to 1997 were submitted to the National Congress of the Republic of Honduras and the ratification of Convention No. 182 was registered on 25 October 2001. The Committee trusts that the Government will indicate in due course the decision taken by the National Congress in relation to the other instruments referred to above *(point III of the questionnaire* at the end of the Memorandum of 1980).

2. Please indicate the representative organizations of employers and workers to which the information was communicated which had been provided to the Director-General, in accordance with article 23, paragraph 2, of the Constitution of the ILO. Furthermore, the Committee is addressing a request directly to the Government for additional information on the submission of certain instruments.

India

The Committee notes the detailed information supplied by the Government on the submission to the Upper House and the Lower House of the Parliament of India in July 2000, of the instruments adopted by the Conference at its 85th Session. The Committee trusts that the Government will indicate soon that the instruments adopted at the 78th, 79th, 80th, 81st, 82nd, 87th and 88th Sessions of the Conference have also been submitted to the competent authorities.

Kazakhstan

1. The Committee regrets that the Government has not provided information on the submission to the competent authorities of the instruments adopted by the Conference since 1993 (80th 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions of the Conference).

2. The Committee notes that the Republic of Kazakhstan has been a member State since 31 May 1993. It recalls that under article 19 of the Constitution of the International Labour Organization, each of the Members undertakes that it will bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action. The Governing Body of the International Labour Office adopted in 1980 a *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, asking for particulars about this question. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and the proposals made by the Government on the measures which might be taken with regard to the instruments that have been submitted. The Committee trusts that the Government will report shortly on the submission to the competent authorities of the instruments adopted at the 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions of the Conference.

3. The Government may deem it useful to consider appropriate forms of ILO assistance in this area.

Kenya

The Committee notes with interest that the Conventions and Recommendations adopted at the 34th, 42nd, and 81st to 87th Sessions of the Conference were submitted, on 24 April 2001, to the National Assembly and furthermore that the ratification of Conventions Nos. 100, 111 and 182 was registered on 7 May 2001. The Committee welcomes this progress and trusts that the Government will be able to supply information concerning the submission to the National Assembly of the Protocols of

1995 and 1996 (adopted at the 82nd and 84th Sessions) and of the instruments on maternity protection (88th Session, May-June 2000).

Kyrgyzstan

1. The Committee regrets that the Government has not communicated information on the submission to the competent authorities of the instruments adopted by the Conference since 1992 (79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions).

2. The Committee further notes that Kyrgyzstan has been a Member of the Organization since 31 March 1992. It recalls that under article 19 of the Constitution of the International Labour Organization, each of the Members undertakes that it will bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action. The Governing Body of the International Labour Office has adopted a *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, asking for particulars about this question. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and the proposals made by the Government on the measures which might be taken with regard to the instruments that have been submitted.

3. The Committee urges the Government, in the same way as the Conference Committee, to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Lao People's Democratic Republic

The Committee notes with regret that the Government has not replied to its previous comments. It hopes that the Government will indicate shortly that the instruments adopted at the 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions of the Conference have been submitted to the competent authorities.

• *Latvia*

The Committee notes the detailed information forwarded by the Government in relation to the instruments on maternity protection adopted by the Conference at its 88th Session (May-June 2000). It also notes that the question about the ratification of Conventions will be discussed at the National Tripartite Cooperation Council in November 2001. The Committee refers to its previous observations and again asks the Government to communicate the information required in the Memorandum of 1980 regarding the submission to Parliament (Seimas) of the other instruments adopted by the Conference since 1992 (79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th and 87th Sessions).

Lesotho

The Committee notes with interest that the instruments adopted at the 82nd, 83rd, 84th, 85th and 86th Sessions of the Conference were submitted to Parliament on 25 January 1999. It also notes with interest that the ratification of Conventions Nos. 81, 105, 150, 158 and 182 was registered on 14 June 2001. The Committee welcomes this progress and trusts that the Government will be able to supply information concerning the submission to Parliament of the Protocol of 1995 (adopted at the 82nd Session) and of the instruments on maternity protection (88th Session, May-June 2000).

Madagascar

The Committee notes with interest that the ratification of Convention No. 182 was registered on 4 October 2001. It further notes the statement by the Government representative to the Conference Committee (June 2001) indicating that appropriate measures had been taken by the Ministry of Labour with the technical assistance of the ILO to submit the instruments adopted at the 71st, 75th, 77th, 78th, 85th and 88th Sessions. The Government expressed the hope that the ILO would continue to provide technical assistance in relation to submissions. The Committee hopes that, with the technical assistance of the ILO, the Government will be in a position to indicate in the near future that the instruments have indeed been submitted to the National Assembly and that it will provide the relevant information concerning the instruments adopted at the 55th, 69th (Recommendation No. 167), 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th and 88th Sessions of the Conference.

Mali

The Committee recalls that it had noted with interest that the ratification of Convention No. 182 was registered on 14 July 2000. It also notes with interest that the instruments adopted at the 82nd and 83rd Sessions, as well as the Conventions and Recommendations adopted at the 84th Session of the Conference, were submitted to the National Assembly on 28 May 2001. It welcomes this progress and requests the Government to provide the information required by the Memorandum of 1980 on the submission to the National Assembly of the Protocol of 1996, adopted at the 84th (Maritime) Session (October 1996) and the instruments adopted at the 79th, 80th, 81st, 85th, 86th and 88th Sessions.

Mauritania

The Committee notes with interest that the ratification of Conventions Nos. 98, 100, 138 and 182 was registered on 3 December 2001. It refers to its previous observation and expresses its hope that the Government will take the necessary measures to enable it in the very near future to indicate that the instruments adopted by the Conference since 1994 (81st, 82nd, 83rd, 84th, 85th, 86th and 88th Sessions) have been submitted to the National Assembly.

Mongolia

1. The Committee notes with interest that the ratification of Convention No. 182 was registered on 26 February 2001.

2. The Committee recalls that the Government has not provided information regarding the submission to the competent authorities of the other instruments adopted by the Conference between 1995 and 2000 (82nd, 83rd, 84th, 85th, 86th and 88th Sessions).

3. The Committee notes that under article 19 of the Constitution of the International Labour Organization, each of the Members undertakes that it will bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action. The Governing Body of the International Labour Office has adopted a *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, asking for particulars about this question. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and the proposals made by the Government on the measures which might be taken with regard to the instruments that have been submitted.

Nigeria

The Committee notes with regret that the Government has not communicated information regarding the submission to the competent authorities of the instruments adopted by the Conference at its 80th, 83rd, 84th, 85th, 86th, 87th and 88th Sessions.

Pakistan

1. The Committee notes with interest that the ratification of Conventions Nos. 100 and 182 was registered on 11 October 2001. It further notes the information provided by the Government in September 2001 according to which the instruments adopted by the Conference at its 88th Session have not been submitted to the competent authority, as the process of consultation has not yet been completed. In reply to previous observations, the Government indicates that the instruments adopted by the Conference have been submitted to the competent authority. It adds that, as regards other instruments, the Government is consulting the workers' and employers' organizations, provincial governments, as well as concerned federal ministries, in order to incorporate their views in the summary to be submitted to the competent authority.

2. In its previous observations, the Committee noted that the Government had stated that the instruments adopted by the Conference at its 83rd Session had been submitted to the competent authority, i.e. the Cabinet. It recalls that the expression "competent authorities" used in article 19 of the Constitution of the Organization is intended to refer to a legislative and not to a ratifying authority. In the *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, adopted in 1980, the ILO Governing Body indicated that the competent national authority should normally be the legislature (see Part I of the 1980 Memorandum).

3. The Committee also recalls that the obligation of governments to submit the instruments to the competent authorities does not imply any obligation to propose the ratification or acceptation of the instruments in question. Governments have complete freedom as to the nature of the proposals to be made when submitting Conventions and Recommendations to the competent authorities.

4. The Committee trusts that the Government will continue to report on the measures taken to ensure full compliance with the obligation to submit and will be able to indicate in the near future that the instruments adopted at the 81st, 82nd, 83rd, 84th,

85th, 86th and 88th Sessions of the Conference have been submitted to the competent authority within the meaning of article 19 of the Constitution of the Organization.

Rwanda

1. The Committee recalls that it noted with interest that the ratification of Convention No. 182 was registered on 23 May 2000. It also notes the information provided by the Government indicating that the procedure for the submission to the competent authority of the instruments on maternity protection adopted at the 88th Session of the Conference has been under way since October 2000.

2. In reply to its direct request of 2000, the Government indicates that, in accordance with the provisions of the 1991 Constitution and the Arusha Peace Agreement of 1993, the President of the Republic, following a decision by the Council of Ministers, ratifies international public or private law treaties, conventions and agreements and transmits them to the National Assembly as soon as the interests and security of the State so permit. The Government therefore specifies that, in the case of international labour Conventions, the body for submission in Rwanda is the Council of Ministers, which is an executive body. The Committee recalls that the obligation of submission to the competent authorities concerns all the instruments adopted by the Conference without exception and without distinction between Conventions, Recommendations and Protocols (Part II, "Extent of the Obligation to Submit" of the *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, adopted in 1980 by the Governing Body), although only Conventions and Protocols are open to ratification. Furthermore, the principal objective of the Constitution of the Organization was, and still is, that the instruments adopted by the Conference are brought to the knowledge of the public through their submission to a parliamentary body. Even where the power to ratify, as appears to be the case in Rwanda, is held by the executive, it is in conformity with the obligation of submission established by article 19, paragraphs 5 and 6, of the Constitution of the Organization to arrange for the examination of the instruments adopted by the Conference by a deliberative body. Submission, or at least formal transmission, to the National Assembly can constitute an important factor in the complete examination of the question and a possible improvement of the measures taken at the national level to give effect to the instruments adopted by the Conference.

3. The Committee hopes that the Government will take the necessary measures to ensure that this matter is re-examined, possibly in consultation with the competent services of the Office, with a view to achieving full compliance with the obligation of submission set out in article 19 of the Constitution of the Organization. The Committee refers to its previous comments and also requests the Government to report on the submission to the National Assembly of the instruments (Conventions, Recommendations and Protocols) adopted at the 80th 82nd, 83rd, 84th, 85th, 86th and 88th Sessions of the Conference.

Saint Lucia

The Committee recalls that it noted with interest that the ratification of Conventions Nos. 154, 158 and 182 was registered on 6 December 2000. It refers to its observation of 2000 and notes that, in accordance with article 19, paragraphs 5 and 6, of the Constitution of the Organization, Saint Lucia as a Member of the Organization has the obligation to submit to Parliament all the remaining Conventions, Recommendations and Protocols adopted by the Conference from 1980 to 2000 (i.e. 66th, 67th (Conventions Nos. 155 and 156, Recommendations Nos. 164 and 165), 68th (Convention No. 157 and Protocol of 1982), 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th and 88th Sessions) and provide in this respect the indications requested by the questionnaire at the end of the Memorandum of 1980. The Committee also recalls that the Conference Committee has expressed again its hope that Saint Lucia would, in the near future, send reports containing information relating to the submission of the instruments adopted by the Conference to Parliament. Thus, the Committee again requests the Government to take the necessary measures to ensure full compliance with the constitutional obligation to submit.

Sao Tome and Principe

The Committee notes with regret that the Government has not provided the information required in the questionnaire at the end of the Memorandum of 1980 on the submission to the competent authorities of the instruments adopted by the Conference since 1990 (77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions). It urges the Government, with the Conference Committee, to make every effort to fulfil the constitutional obligation of submission and hopes that the technical assistance of the Office will help the Government to overcome this important backlog.

Senegal

The Committee notes the information provided by the Government in December 2000 concerning the detailed reports prepared by the Ministry of Labour relating to the submission to Parliament of the instruments adopted by the Conference at its 79th, 80th, 81st, 82nd, 83rd, 84th, 85th and 86th Sessions. The reports were transmitted to the General Secretariat of the Government and, after their adoption by the Council of Ministers, it is for the President of the Republic to submit them to Parliament. The instruments on maternity protection adopted at the 88th Session of the Conference (May-June 2000) were transmitted for their opinion to other competent ministries and to the Social Security Fund. Furthermore, a Government representative informed the Conference Committee (June 2001) that it was only after the legislative elections in May 2001 that a new National Assembly had been elected and that all the submissions would be carried out in the near future in accordance with the commitments assumed. The Committee recalls that it noted with interest that the ratification of Convention No. 182 was registered on 1 June 2000. It hopes that the Government will be in a position to indicate in the near future the date on which the instruments adopted by the Conference at the nine sessions mentioned above (79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th and 88th Sessions) were actually submitted to Parliament.

Seychelles

The Committee notes, as did the Conference Committee, the communication from the Ministry of Social Affairs and Manpower Development, received in the Office on 8 June 2001, indicating that the Cabinet approved at its meeting on 9 May 2001 the submission to the National Assembly of the instruments adopted by the Conference from 1978 to 2000. These instruments were submitted for information to the National Assembly on 4 June 2001. The Committee also recalls with interest that the ratification of Conventions Nos. 98, 100, 111, 138, 148, 150, 151 and 182 was registered in 1999 and 2000.

Sierra Leone

The Committee recalls the statement by the Government representative to the Conference Committee in May-June 2000 indicating that Conventions Nos. 138, 151 and 182 had been submitted to Parliament for ratification and calling for further technical assistance in relation to the submission of instruments to the competent authorities. The Committee hopes that the Government will obtain the technical assistance requested in this matter and will be in a position to fully report on the submission to Parliament of the instruments adopted by the Conference since October 1976 (Convention No. 146 and Recommendation No. 154 adopted at the 62nd Session and the 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions).

Solomon Islands

The Committee notes with regret that the Government has not supplied information on the submission to the competent authorities of the instruments adopted by the Conference since 1984 (70th, 71st, 72nd, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions). The Committee urges the Government, in the same way as the Conference Committee, to make every effort to comply with the constitutional obligation of submission, and recalls that the Office can provide technical assistance to overcome this serious delay.

Somalia

The Committee trusts that, when the national circumstances permit, the Government will provide information on the submission to the competent authorities with regard to the instruments adopted by the Conference since October 1976 (63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions).

Spain

The Committee notes with interest that the ratification of Convention No. 182 was registered on 2 April 2001. The Committee also notes a communication from the Government in June 2001 in which it indicates that it has completed the internal processing of certain instruments adopted by the Conference at its 75th, 80th, 81st, 83rd, 84th and 86th Sessions. The competent authorities have endorsed the taking note of the instruments on nursing personnel, adopted at the 63rd Session (Convention No. 149 and Recommendation No. 157). The Committee refers to its previous observations and once again hopes that the Government will be in a position to indicate in the near future that certain instruments adopted at the 63rd Session (Convention No. 149 and Recommendation No. 157) and *the 75th Session (Convention No. 168 and*

Recommendation No. 176), and the instruments adopted at the 80th, 81st, 83rd, 84th, 86th and 88th Sessions of the Conference have indeed been submitted to the Cortes.

Sudan

The Committee recalls the communication received in October 2000 indicating that the instruments adopted by the Conference at its 87th Session were submitted to the competent authorities and that Conventions Nos. 138 and 182 were both in the process of ratification. It notes the information provided by the Government in November 2001 indicating that the instruments adopted by the 88th Session of the Conference have been submitted to the Council of Ministers. The Committee hopes that, when national circumstances so permit, the Government will indicate that the instruments adopted by the Conference between 1994 and 2000 (81st, 82nd, 83rd, 84th, 85th, 86th and 88th Sessions) were also submitted to the National Assembly (Mazlis Watani).

Suriname

Further to previous comments, the Government has indicated that consultations have taken place regarding the instruments adopted at the 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions of the Conference. The instruments have been submitted to the Board of Ministers for approval and the Board will ultimately submit them to the National Assembly. The Committee trusts that the Government will be in a position to indicate shortly that the abovementioned instruments, adopted by the Conference between 1994 and 2000, have been submitted to the National Assembly.

Swaziland

The Committee refers to its 2000 observation and asks the Government to provide the information requested by the Memorandum of 1980 on the submission to Parliament of the Protocol of 1995 to the Labour Inspection Convention, 1947, adopted at the 82nd Session, and of the instruments adopted at the 84th, 85th, 86th, 87th and 88th Sessions of the Conference.

Syrian Arab Republic

The Committee notes the information provided by the Government with a view to ratifying Conventions Nos. 138 and 182. It also notes the statement by the Government representative to the Conference Committee in June 2001 and the written reply to the observation it made in 2000. The Committee of Experts notes that, in a communication dated 2 June 2001, the President of the Council of Ministers authorized the Ministry of Social and Labour Affairs to submit the pending matters to the competent authorities. The Committee refers to the comments that it has been making for several years, and particularly in its observation of 1999, and hopes that the Government will be in a position to indicate in the near future that the instruments adopted by the Conference at the 66th, 69th (Recommendations Nos. 167 and 168) Sessions and from 1984 to 2000 (70th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions) have been submitted to the People's Council (Majlis al-Chaab) and that it will provide in this respect the information requested in the questionnaire at the end of the Memorandum of 1980.

United Republic of Tanzania

e Committee notes with interest that the ratification of Convention No. 182 red on 12 September 2001. It once again observes that the Government has ·d new information on the submission to the competent authorities of the nstruments adopted by the Conference from 1980 to 2000 (66th, 67th, 68th, 75th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th and 88th

e Committee also recalls that in previous observations it had asked the it to indicate the date on which the instruments adopted from the 54th to the ns were submitted to Parliament.

e Committee urges the Government to make every effort to comply with the ial obligation of submission, and recalls that the Office can provide technical o overcome this serious delay.

Thailand

Committee notes with interest that the ratification of Convention No. 182 was on 16 February 2001. It asks the Government to provide information in the submission to the competent authorities of the other instruments adopted ference since 1996 (83rd, 84th, 85th, 86th and 88th Sessions).

The former Yugoslav Republic of Macedonia

Committee asks the Government to state whether the instruments adopted by ence at its 83rd, 84th, 85th, 86th, 87th and 88th Sessions have been submitted etent authorities.

Turkmenistan

e Committee notes with regret that the Government has not communicated on the submission to the competent authorities of the instruments adopted by nce since 1994 (81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions).

e Committee further notes that Turkmenistan has been a Member of the n since 24 September 1993. It recalls that under article 19 of the Constitution rnational Labour Organization, each of the Members undertakes that it will instruments adopted by the International Labour Conference before the r authorities within whose competence the matter lies, for the enactment of or other action. The Governing Body of the International Labour Office has 1980 a *Memorandum concerning the obligation to submit Conventions and lations to the competent authorities*, asking for particulars about this he Committee hopes that the Government will provide all the information y the questionnaire at the end of the Memorandum about the competent he date on which the instruments were submitted and the proposals made by ment on the measures which might be taken with regard to the instruments een submitted.

3. The Committee urges the Government to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Uganda

The Committee notes with interest that the ratification of Convention No. 182 was registered on 21 June 2001. It further notes that a Cabinet memorandum is being prepared in order to submit the instruments on maternity protection adopted by the Conference at its 88th Session. It recalls its previous observations and asks the Government to provide the indications requested by the questionnaire at the end of the 1980 Memorandum on the submission to Parliament of the instruments adopted by the Conference at its 81st, 82nd, 83rd, 84th, 85th, 86th and 88th Sessions.

Uruguay

The Committee notes with interest that the ratification of Convention No. 182 was registered on 3 August 2001. It refers to its previous comments and would be grateful if the Government would provide additional information on the submission of Convention No. 176 and Recommendation No. 183, adopted at the 82nd Session of the Conference (June 1995), and the submission to the General Assembly of the instruments adopted at the 80th, 83rd, 85th, 86th and 88th Sessions of the Conference.

Uzbekistan

1. The Committee notes with regret that the Government has not communicated information on the submission to the competent authorities of the instruments adopted by the Conference since 1993 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th and 88th Sessions).

2. The Committee further notes that Uzbekistan has been a Member of the Organization since 31 July 1992. It recalls that under article 19 of the Constitution of the International Labour Organization, each of the Members undertakes that it will bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action. The Governing Body of the International Labour Office has adopted a *Memorandum in 1980 concerning the obligation to submit Conventions and Recommendations to the competent authorities*, asking for particulars about this question. The Committee hopes that the Government will provide all the information requested by the questionnaire at the end of the Memorandum about the competent authority, the date on which the instruments were submitted and the proposals made by the Government on the measures which might be taken with regard to the instruments that have been submitted.

3. The Committee urges the Government to make every effort to comply with the constitutional obligation of submission and recalls that the Office can provide technical assistance to overcome this serious delay.

Venezuela

1. In its observation of 2000, the Committee asked information on the submission to the Congress of the Republic of the remaining instruments adopted at the 75th Session (Convention No. 168 and Recommendation No. 176); 77th Session (Convention No. 171 and Recommendation No. 178, the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948 (No. 89)); and 82nd Session (Protocol of 1995 to the Labour Inspection Convention, 1947) of the Conference.

2. Furthermore, the Committee notes that it has not received information on the submission to the Congress of the Republic of the instruments adopted at the 71st (Convention No. 161), 74th (Conventions Nos. 163, 164, 165 and 166, and Recommendation No. 174), 78th (Convention No. 172), 79th, 80th, 81st, 83rd, 84th, 85th, 86th, 87th, and 88th Sessions of the Conference. The Committee hopes that this substantial delay in complying with the obligation of submission will be resolved in the near future.

Zambia

1. The Committee notes that the instruments adopted by the Conference since 1996 were submitted to the Cabinet. It recalls that the expression "competent authorities" used in article 19 of the Constitution of the Organization is intended to refer to a legislative and not to a ratifying authority. In the *Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities*, adopted in 1980, the ILO Governing Body has indicated that the competent national authority should normally be the legislature (see Part I of the 1980 Memorandum).

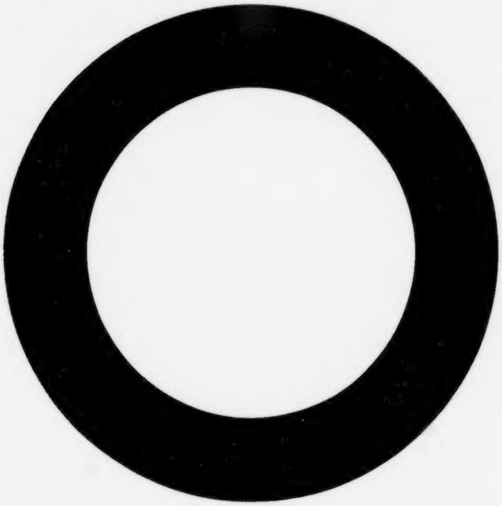
2. The Committee also recalls that the obligation of governments to submit the instruments to the competent authorities does not imply any obligation to propose the ratification or acceptance of the instruments in question. Governments have complete freedom as to the nature of the proposals to be made when submitting the instruments adopted by the Conference to the competent authorities.

3. The Committee trusts that the Government will continue to report on the measures taken to ensure full compliance with the obligation to submit established in article 19 of the Constitution of the Organization and will be able to indicate soon that the instruments adopted at the 83rd, 84th, 85th, 86th, 87th and 88th Sessions of the Conference have been submitted to the National Assembly.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Antigua and Barbuda, Argentina, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Belgium, Benin, Botswana, Chile, Côte d'Ivoire, Croatia, Cuba, Cyprus, Denmark, Ecuador, Ethiopia, France, Gambia, Germany, Ghana, Guyana, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Iraq, Ireland, Jamaica, Jordan, Kiribati, Kuwait, Lebanon, Liberia, Libyan Arab Jamahiriya, Luxembourg, Malawi, Malta, Republic of Moldova, Morocco, Mozambique, Myanmar, Nepal, Niger, Oman, Panama, Papua New Guinea, Paraguay, Peru, Portugal, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Slovenia, South Africa, Sri Lanka, Sweden, Tajikistan, Togo, Tunisia, United States, Yemen, Zimbabwe.*

APPENDICES



Appendix I. Table of reports received on ratified Conventions as of 7 December 2001

(articles 22 and 35 of the Constitution)

Article 22 of the Constitution of the International Labour Organization provides that "each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of the Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request". Article 23 of the Constitution provides that the Director-General shall lay before the next meeting of the Conference a summary of the reports communicated to him by Members in pursuance of article 22, and that each Member shall communicate copies of these reports to the representative organizations of employers and workers.

At its 204th (November 1977) Session, the Governing Body approved the following arrangements for the presentation by the Director-General to the Conference of summaries of reports submitted by governments under articles 22 and 35 of the Constitution:

(a) the practice of tabular classification of reports, without summary of their contents, which has been followed for several years in respect of reports subsequent to first reports after ratification, should be applied to all reports, including first reports;

(b) the Director-General should make available, for consultation at the Conference, the original texts of all reports received on ratified Conventions; in addition, photocopies of the reports should be supplied on request to members of delegations.

At its 267th (November 1996) Session, the Governing Body approved new measures for rationalization and simplification.

Reports received under articles 22 and 35 of the Constitution appear in simplified form in a table annexed to the report of the Committee of Experts on the Application of Conventions and Recommendations; first reports are indicated in parenthesis.

Requests for consultation or copies of reports may be addressed to the secretariat of the Committee on the Application of Standards.

Afghanistan
14 reports requested

- No reports received: Conventions Nos. 13, 14, 41, 45, 95, 100, 105, 106, 111, 137, 139, 140, 141, 142

Albania
16 reports requested

- 15 reports received: Conventions Nos. 6, 11, 16, 29, 52, 77, 78, 87, 98, 100, 111, (138), (144), (151), (181)
- 1 report not received: Convention No. 105

Algeria
24 reports requested

- 10 reports received: Conventions Nos. 13, 32, 69, 73, 74, 77, 81, 87, 142, 144
- 14 reports not received: Conventions Nos. 17, 19, 24, 62, 78, 94, 96, 97, 98, 105, 111, 127, 138, 150

Angola
12 reports requested

- 9 reports received: Conventions Nos. 6, 19, 27, 81, 98, 105, 106, 107, 111
- 3 reports not received: Conventions Nos. 69, 73, 74

Antigua and Barbuda
13 reports requested

- No reports received: Conventions Nos. 11, 12, 14, 19, 29, 81, 94, 98, 101, 105, 108, 111, 138

Argentina
15 reports requested

- 13 reports received: Conventions Nos. 13, 16, 19, 53, 71, 73, 81, 88, 98, 105, 111, 139, 144
- 2 reports not received: Conventions Nos. 32, 79

Armenia
7 reports requested

- No reports received: Conventions Nos. (100), (111), (122), (135), (151), (174), (176)

Australia
11 reports requested

- 10 reports received: Conventions Nos. 10, 16, 19, 69, 73, 81, 98, 105, 111, 123
- 1 report not received: Convention No. 144

Norfolk Island
7 reports requested

- All reports received: Conventions Nos. 10, 19, 42, 98, 105, 131, 156

Austria
10 reports requested

- All reports received: Conventions Nos. 13, 19, 81, 98, 102, 105, 111, 128, 144, (176)

Azerbaijan
16 reports requested

- All reports received: Conventions Nos. 11, 13, 16, 32, 52, 69, 73, 98, 106, 111, 113, 124, 134, 144, 149, 151

Bahamas
6 reports requested

- All reports received: Conventions Nos. 10, 19, 81, 98, 105, 144

Bahrain
3 reports requested

- All reports received: Conventions Nos. 81, (105), (159)

Bangladesh
13 reports requested

- All reports received: Conventions Nos. 11, 16, 19, 32, 81, 87, 98, 105, 106, 107, 111, 118, 144

Barbados
13 reports requested

- 6 reports received: Conventions Nos. 29, 81, 98, 111, 144, 172
- 7 reports not received: Conventions Nos. 19, 74, 102, 105, 108, 118, 128

Belarus
10 reports requested

- All reports received: Conventions Nos. 16, 32, 81, 87, 98, 105, 111, 144, 151, 154

Belgium
19 reports requested

- All reports received: Conventions Nos. 13, 16, 19, 32, 53, 62, 69, 73, 74, 81, 98, 102, 105, 111, 113, 125, 139, 144, 171

Belize
25 reports requested

- No reports received: Conventions Nos. 5, (14), 16, 19, 22, 29, 81, 87, 88, 94, 95, 97, 98, (100), 101, 105, (111), 115, (135), (140), (141), (151), (154), (155), (156)

Benin
5 reports requested

- All reports received: Conventions Nos. 13, 33, 98, 105, 111

Bolivia
19 reports requested

- No reports received: Conventions Nos. 19, 20, 81, 95, 98, 102, 105, 111, 117, 118, 121, 122, 123, 124, 128, 130, 131, 136, 160

Bosnia and Herzegovina
58 reports requested

- No reports received: Conventions Nos. 8, 9, 11, 12, 13, 14, 16, 19, 22, 23, 24, 25, 27, 29, 32, 45, 53, 56, 69, 73, 74, 81, 87, 88, 89, 90, 91, 92, 97, 98, 100, 102, 103, 106, 111, 113, 114, 119, 121, 122, 126, 129, 131, 132, 135, 136, 138, 139, 140, 142, 143, 148, 155, 156, 158, 159, 161, 162

Botswana
14 reports requested

- 13 reports received: Conventions Nos. 14, (29), (87), (95), (98), (100), (105), (111), (138), (144), (151), (173), (176)
- 1 report not received: Convention No. 19

Brazil
21 reports requested

- All reports received: Conventions Nos. 16, 19, 53, 81, 98, 105, 111, 113, 115, 118, 125, 134, 139, 140, 144, 145, 152, 163, 164, 166, 168

Bulgaria
19 reports requested

- All reports received: Conventions Nos. 13, 14, 16, 19, 32, 52, 53, 62, 69, 73, 81, 98, 100, (105), 106, 111, 113, 138, 144

Burkina Faso
12 reports requested

- All reports received: Conventions Nos. 13, 19, 81, 98, 105, 111, (138), (141), 159, (161), (170), (173)

Burundi
9 reports requested

- All reports received: Conventions Nos. 11, 19, 62, 81, 94, 98, 105, 111, 144

Cambodia
8 reports requested

- No reports received: Conventions Nos. 13, (87), (98), (100), (105), (111), (138), (150)

Cameroon
34 reports requested

- 32 reports received: Conventions Nos. 5, 9, 10, 11, 13 14, 16, 29, 33, 45, 77, 78, 81, 87, 89, 90, 94, 95, 97, 98, 100, 106, 108, 111, 122, 123, 132, 135, 143, 146, 158, 162
- 2 reports not received: Conventions Nos. 19, 105

Canada
7 reports requested

- All reports received: Conventions Nos. 16, 32, 69, 73, 74, 105, 111

Cape Verde
9 reports requested

- 8 reports received: Conventions Nos. 17, 19, 81, 98, 100, 105, 111, 118
- 1 report not received: Convention No. (87)

Central African Republic
21 reports requested

- 18 reports received: Conventions Nos. 6, 11, 14, 17, 18, 19, 41, 52, 62, 81, 87, 95, 98, 100, 101, 105, 111, 118
- 3 reports not received: Conventions Nos. 13, 29, 94

Chad
12 reports requested

- 8 reports received: Conventions Nos. 13, 14, 33, 41, 81, 95, 105, (135)
- 4 reports not received: Conventions Nos. 98, 111, 144, (151)

Chile
18 reports requested

- 17 reports received: Conventions Nos. 13, 16, 19, 20, 29, 32, (87), (98), (105), 111, 122, 127, (131), (135), (138), (140), 162
- 1 report not received: Convention No. 144

China
6 reports requested

- All reports received: Conventions Nos. 14, 16, 19, 32, (138), 144

Hong Kong Special Administrative Region

22 reports requested

- All reports received: Conventions Nos. 2, 8, 11, 12, (16), 17, (19), (32), 42, (74), 81, 98, 105, 108, (138), 142, 144, 147, 148, 150, 151, 160

Macau Special Administrative Region

9 reports requested

- All reports received: Conventions Nos. (19), (69), (73), (74), (81), (98), (105), (111), (144)

Colombia

13 reports requested

- All reports received: Conventions Nos. 10, 13, 16, 19, 81, 88, 98, 105, 106, 111, (144), 160, 174

Comoros

17 reports requested

- 8 reports received: Conventions Nos. 13, 14, 19, 33, 52, 81, 95, 98
- 9 reports not received: Conventions Nos. 5, 10, 11, 12, 87, 89, 101, 105, 106

Congo

14 reports requested

- 4 reports received: Conventions Nos. 6, 14, 29, 87
- 10 reports not received: Conventions Nos. 13, (81), 95, (98), (100), (105), (111), (138), (144), 152

Costa Rica

14 reports requested

- 10 reports received: Conventions Nos. 16, 98, 105, 111, 113, 114, 134, 144, 145, 148
- 4 reports not received: Conventions Nos. 81, 94, 95, 102

Côte d'Ivoire

18 reports requested

- 1 report received: Convention No. 29
- 17 reports not received: Conventions Nos. 6, 13, 14, 18, 19, 33, 52, 81, 87, 95, 98, 105, 111, 129, 133, 144, (159)

Croatia

15 reports requested

- All reports received: Conventions Nos. 13, 16, 19, 32, 53, 69, 73, 74, 81, 98, 102, 105, 111, 113, 139

Cuba

12 reports requested

- All reports received: Conventions Nos. 13, 16, 19, 53, 81, 87, 98, 105, 111, 113, 145, 152

Cyprus

15 reports requested

- 12 reports received: Conventions Nos. 16, 19, 81, 98, 102, 105, 122, 123, 128, 144, 152, (175)
- 3 reports not received: Conventions Nos. 23, 111, 147

Czech Republic

26 reports requested

- 21 reports received: Conventions Nos. 10, 11, 13, 14, 29, 87, 89, 90, 98, 100, 108, 115, 122, 123, 124, 128, 130, 132, 140, 148, 161
- 5 reports not received: Conventions Nos. 19, 102, 105, 111, 139

Democratic Republic of the Congo

24 reports requested

- 11 reports received: Conventions Nos. 11, 12, 14, 19, 26, 27, 29, 62, 81, 84, 88
- 13 reports not received: Conventions Nos. 89, 94, 95, 98, 100, 102, 117, 118, 119, 120, 121, 150, 158

Denmark

19 reports requested

- 10 reports received: Conventions Nos. 16, 29, 53, 73, 81, 94, 130, 144, 148, 152
- 9 reports not received: Conventions Nos. 19, 98, 102, 105, 111, 118, 134, 139, 169

Faeroe Islands

21 reports requested

- No reports received: Conventions Nos. 5, 6, 7, 8, 9, 11, 12, 14, 16, 18, 19, 27, 29, 52, 53, 87, 92, 98, 105, 106, 126

Greenland

9 reports requested

- 7 reports received: Conventions Nos. 6, 16, 19, 29, 87, 105, 122
- 2 reports not received: Conventions Nos. 14, 106

Djibouti

27 reports requested

- No reports received: Conventions Nos. 5, 10, 11, 12, 13, 16, 17, 18, 19, 33, 44, 45, 52, 53, 58, 69, 73, 77, 78, 81, 89, 98, 101, 105, 123, 124, 125

Dominica

9 reports requested

- 6 reports received: Conventions Nos. 16, 19, 81, 87, 98, 105
- 3 reports not received: Conventions Nos. 100, 111, 138

Dominican Republic

8 reports requested

- All reports received: Conventions Nos. 19, 81, 98, 105, 111, (138), (144), (150)

Ecuador

18 reports requested

- All reports received: Conventions Nos. 81, 87, 88, 98, 102, 105, 111, 113, 114, 115, 118, 121, 123, 124, 128, 139, 144, 152

Egypt

24 reports requested

- All reports received: Conventions Nos. 19, 53, 55, 56, 62, 69, 73, 74, 81, 87, 94, 98, 100, 105, 106, 111, 115, 118, 134, (138), 139, 144, 145, 152

El Salvador

4 reports requested

- All reports received: Conventions Nos. 81, 105, 111, 144

Equatorial Guinea

7 reports requested

- No reports received: Conventions Nos. 1, 14, 30, (68), (92), 100, 138

Estonia

8 reports requested

- All reports received: Conventions Nos. 10, 13, 16, 19, 53, 98, 105, 144

Ethiopia

7 reports requested

- No reports received: Conventions Nos. 87, 98, (100), (105), 111, (138), (181)

Fiji

13 reports requested

- No reports received: Conventions Nos. 8, 11, 12, 19, 29, 45, 59, 85, 98, 105, 108, (144), (169)

Finland

22 reports requested

- All reports received: Conventions Nos. 13, 16, 19, 53, 73, 81, 98, 105, 111, 118, 128, 134, 139, 144, 145, 152, 167, (175), 176, (178), (179), (181)

France

33 reports requested

- 30 reports received: Conventions Nos. 13, 16, 19, 24, 29, 52, 53, 62, 69, 73, 74, 81, 87, 95, 98, 102, 105, 111, 113, 115, 118, 125, 134, 137, 139, 140, 144, 145, 147, 156
- 3 reports not received: Conventions Nos. 63, 82, 152

French Guiana

25 reports requested

- 17 reports received: Conventions Nos. 10, 13, 16, 19, 32, 53, 62, 73, 81, 94, 95, 98, 105, 111, 123, 129, 144
- 8 reports not received: Conventions Nos. 69, 74, 113, 115, 125, 142, 145, 149

French Polynesia

17 reports requested

- 14 reports received: Conventions Nos. 10, 13, 16, 19, 33, 44, 53, 73, 81, 98, 105, 111, 123, 144
- 3 reports not received: Conventions Nos. 69, 125, 145

French Southern and Antarctic Territories

9 reports requested

- 6 reports received: Conventions Nos. 8, 16, 53, 73, 98, 134
- 3 reports not received: Conventions Nos. 69, 74, 111

Guadeloupe

25 reports requested

- 19 reports received: Conventions Nos. 10, 13, 16, 19, 32, 52, 53, 62, 73, 81, 98, 105, 111, 115, 123, 133, 142, 144, 147
- 6 reports not received: Conventions Nos. 58, 69, 74, 113, 125, 145

Martinique

24 reports requested

- 18 reports received: Conventions Nos. 10, 13, 16, 19, 32, 53, 62, 73, 81, 98, 105, 111, 115, 123, 129, 133, 144, 147
- 6 reports not received: Conventions Nos. 58, 69, 74, 113, 125, 145

New Caledonia

17 reports requested

- 5 reports received: Conventions Nos. 16, 53, 73, 98, 105
- 12 reports not received: Conventions Nos. 10, 13, 19, 33, 69, 95, 111, 123, 125, 127, 144, 145

Rèunion

25 reports requested

- 20 reports received: Conventions Nos. 10, 13, 16, 19, 24, 32, 42, 53, 62, 73, 81, 98, 105, 111, 115, 123, 129, 144, 147, 149
- 5 reports not received: Conventions Nos. 69, 74, 113, 125, 145

St. Pierre and Miquelon **19 reports requested**

16 reports received: Conventions Nos. 10, 11, 13, 16, 19, 33, 42, 53, 73, 81, 98, 105, 111, 115, 123, 144
3 reports not received: Conventions Nos. 69, 125, 145

Gabon

27 reports requested

23 reports received: Conventions Nos. 6, 10, 11, 12, 13, 14, 19, 29, 33, 41, 52, 81, 87, 98, 100, 105, 106, 123, 124, 135, 150, 154, 158
4 reports not received: Conventions Nos. 95, 101, 111, 144

Georgia

9 reports requested

7 reports received: Conventions Nos. 29, 100, (105), 111, (117), 122, 142
2 reports not received: Conventions Nos. (87), 98

Germany

18 reports requested

All reports received: Conventions Nos. 16, 19, 53, 73, 81, 97, 98, 102, 105, 111, 113, 118, 125, 128, 134, 139, 144, 152

Ghana

15 reports requested

All reports received: Conventions Nos. 16, 19, 69, 74, 81, 87, 92, 98, 100, 105, 111, 115, 149, 150, 151

Greece

14 reports requested

All reports received: Conventions Nos. 13, 16, 19, 62, 69, 73, 81, 98, 102, 105, 111, 115, 134, 144

Grenada

12 reports requested

No reports received: Conventions Nos. 10, 16, 19, 26, 81, 97, 98, 99, (100), 105, 108, 144

Guatemala

16 reports requested

All reports received: Conventions Nos. 13, 16, 19, 29, 81, 94, 98, 100, 105, 111, 113, 118, 122, 129, 138, 144

Guinea

22 reports requested

No reports received: Conventions Nos. 10, 13, 16, 33, 62, 81, 89, 94, 95, 98, 105, 111, 113, 118, 121, 134, 139, 140, 144, 149, 152, 159

Guinea-Bissau

9 reports requested

All reports received: Conventions Nos. 14, 19, 69, 73, 74, 81, 98, 105, 111

Guyana

9 reports requested

All reports received: Conventions Nos. 19, 81, 98, 105, 111, 139, 140, 144, 175

Haiti

15 reports requested

No reports received: Conventions Nos. 14, 19, 24, 25, 29, 77, 78, 81, 87, 90, 98, 105, 106, 107, 111

Honduras

7 reports requested

All reports received: Conventions Nos. 32, 62, 81, 87, 98, 105, 111

Hungary

12 reports requested

All reports received: Conventions Nos. 13, 16, 19, 24, 81, 98, 105, 111, 122, 139, 144, 145

Iceland

8 reports requested

7 reports received: Conventions Nos. 98, 105, 111, (138), 139, 144, (147)
1 report not received: Convention No. 102

India

14 reports requested

All reports received: Conventions Nos. 11, 16, 19, 22, 29, 32, 81, 107, 111, 118, (122), 123, 144, 147

Indonesia

8 reports requested

7 reports received: Conventions Nos. 19, 98, (105), 106, (111), (138), 144
1 report not received: Convention No. 69

Islamic Republic of Iran

6 reports requested

5 reports received: Conventions Nos. 14, 19, 29, 106, 111
1 report not received: Convention No. 105

Iraq

16 reports requested

No reports received: Conventions Nos. 11, 13, 16, 19, 77, 78, 81, 98, 105, 111, 118, 139, 144, 145, 148, 152

Ireland

24 reports requested

14 reports received: Conventions Nos. 16, 19, 29, 32, 53, 62, 69, 73, 74, 81, 98, 102, 105, 118
10 reports not received: Conventions Nos. (111), 122, 132, 139, 144, (172), (177), (178), (179), (182)

Israel

10 reports requested

9 reports received: Conventions Nos. 19, 53, 81, 98, 102, 105, 111, 118, 134
1 report not received: Convention No. 147

Italy

18 reports requested

All reports received: Conventions Nos. 13, 16, 19, 53, 69, 73, 74, 81, 98, 102, 105, 111, 118, 127, 134, 139, 144, 145

Jamaica

17 reports requested

10 reports received: Conventions Nos. 8, 11, 16, 29, 81, 87, 94, 97, 98, 150
7 reports not received: Conventions Nos. 19, 100, 105, 111, 122, 144, 149

Japan

11 reports requested

All reports received: Conventions Nos. 16, 19, 69, 73, 81, 98, 102, 134, 139, 156, (181)

Jordan

5 reports requested

All reports received: Conventions Nos. 81, 98, 105, 111, 118

Kazakhstan

2 reports requested

No reports received: Conventions Nos. (111), (122)

Kenya

9 reports requested

All reports received: Conventions Nos. 16, 19, 32, 81, 98, 105, 118, 134, 144

Republic of Korea

8 reports requested

7 reports received: Conventions Nos. 73, 81, 111, (138), (144), 150, (159)
1 report not received: Convention No. 160

Kuwait

5 reports requested

All reports received: Conventions Nos. 81, 87, 105, 111, (138)

Kyrgyzstan

42 reports requested

No reports received: Conventions Nos. 11, 14, 16, 23, 27, 29, 32, 45, 47, 52, 69, 73, 77, 78, 79, 87, 90, 92, 95, 98, 100, 103, (105), 106, 108, 111, 113, 115, 119, 120, 122, 124, 126, (133), 134, 138, 142, 147, 148, 149, 159, 160

Lao People's Democratic Republic

4 reports requested

All reports received: Conventions Nos. 4, 6, 13, 29

Latvia

19 reports requested

17 reports received: Conventions Nos. 7, 8, 9, 13, 16, 19, 81, 98, 105, 108, 111, 135, 144, (147), 151, 154, 155
2 reports not received: Conventions Nos. 149, 158

Lebanon

8 reports requested

All reports received: Conventions Nos. 19, 73, 74, 81, 98, 105, 111, 147

Lesotho

6 reports requested

5 reports received: Conventions Nos. 19, 98, (100), 144, (167)
1 report not received: Convention No. 111

Liberia

14 reports requested

No reports received: Conventions Nos. 22, 23, 29, 53, 55, 87, 98, 105, 108, 111, 113, 114, (133), 147

Libyan Arab Jamahiriya

19 reports requested

12 reports received: Conventions Nos. 53, 81, 88, 89, 95, 98, 100, 102, 103, 105, 111, 138
7 reports not received: Conventions Nos. 14, 96, 118, 121, 122, 128, 130

Lithuania **9 reports requested**

- All reports received: Conventions Nos. 19, 73, 81, 98, 105, 108, 111, 144, (160)

Luxembourg **11 reports requested**

- 7 reports received: Conventions Nos. 16, 53, 69, 73, 74, 81, 102
- 4 reports not received: Conventions Nos. 13, 19, 98, 105

Madagascar **8 reports requested**

- All reports received: Conventions Nos. 13, 19, 81, 98, 111, 118, 123, 144

Malawi **13 reports requested**

- All reports received: Conventions Nos. 19, (29), 81, (87), 97, 98, (105), 107, 111, (138), 144, (150), (182)

Malaysia **4 reports requested**

- All reports received: Conventions Nos. 81, 95, 98, 123

Peninsular Malaysia **2 reports requested**

- 1 report received: Convention No. 11
- 1 report not received: Convention No. 19

Sabah **2 reports requested**

- All reports received: Conventions Nos. 16, 97

Sarawak **3 reports requested**

- All reports received: Conventions Nos. 11, 16, 19

Mali **12 reports requested**

- 9 reports received: Conventions Nos. 13, 33, 81, 95, 98, 100, 105, 111, 135
- 3 reports not received: Conventions Nos. 18, 19, 159

Malta **11 reports requested**

- All reports received: Conventions Nos. 13, 16, 19, 32, 62, 73, 81, 98, 105, 111, 117

Mauritania **20 reports requested**

- All reports received: Conventions Nos. 3, 13, 14, 19, 29, 33, 53, 62, 81, 87, 91, 94, 95, 102, 105, 111, 112, 114, 118, 122

Mauritius **10 reports requested**

- All reports received: Conventions Nos. 16, 17, 19, 32, 74, 81, 98, 105, 108, 144

Mexico **14 reports requested**

- All reports received: Conventions Nos. 13, 16, 19, 53, 96, 102, 105, 111, 118, 123, 134, 144, 152, 169

Republic of Moldova **16 reports requested**

- All reports received: Conventions Nos. 47, 81, 87, 88, 95, 98, 103, 105, 111, 117, 127, 135, (138), 144, 154, 158

Mongolia **12 reports requested**

- No reports received: Conventions Nos. 59, 87, 98, 100, 103, 111, 122, 123, (135), (144), (155), (159)

Morocco **8 reports requested**

- All reports received: Conventions Nos. 13, 19, 81, 98, 105, 111, 145, (181)

Mozambique **7 reports requested**

- All reports received: Conventions Nos. 14, 81, 98, 100, 105, 111, 144

Myanmar **13 reports requested**

- 9 reports received: Conventions Nos. 1, 2, 6, 14, 17, 19, 26, 29, 52
- 4 reports not received: Conventions Nos. 16, 22, 27, 87

Namibia **2 reports requested**

- All reports received: Conventions Nos. 98, 144

Nepal **3 reports requested**

- All reports received: Conventions Nos. 98, 111, 144

Netherlands **21 reports requested**

- All reports received: Conventions Nos. 13, 16, 19, 62, 69, 73, 74, 81, 98, 102, 105, 111, 113, 118, 128, 144, 145, 152, (162), 174, (181)

Aruba **34 reports requested**

- No reports received: Conventions Nos. 9, 11, 14, 22, 23, 25, 29, 69, 74, 81, 87, 88, 90, 94, 95, 101, 105, 106, 113, 114, 118, 121, 122, 129, 131, 135, 137, 138, 140, 142, 144, 145, 146, 147

Netherlands Antilles **20 reports requested**

- 12 reports received: Conventions Nos. 14, 22, 23, 25, 29, 87, 90, 94, 95, 101, 106, 122
- 8 reports not received: Conventions Nos. 10, 33, 69, 74, 81, 105, 118, (172)

New Zealand **13 reports requested**

- All reports received: Conventions Nos. 10, 16, 17, 32, 53, 69, 74, 81, 105, 111, 134, 144, 145

Tokelau **2 reports requested**

- All reports received: Conventions Nos. 105, 111

Nicaragua **9 reports requested**

- All reports received: Conventions Nos. 8, 13, 16, 19, 98, 105, 111, 139, 144

Niger **13 reports requested**

- 8 reports received: Conventions Nos. 14, 29, 81, 95, 98, 105, 111, 138
- 5 reports not received: Conventions Nos. 6, 13, 100, 102, 156

Nigeria **20 reports requested**

- No reports received: Conventions Nos. 8, 11, 16, 19, 26, 29, 32, 81, 87, 88, 94, 95, 97, 98, 100, 105, 123, 133, 134, 144

Norway **23 reports requested**

- All reports received: Conventions Nos. 13, 16, 19, 53, 69, 73, 81, 98, 102, 105, 111, 113, 118, 128, 134, 139, 144, 145, 152, (164), (176), (178), (179)

Pakistan **11 reports requested**

- All reports received: Conventions Nos. 16, 19, 32, 81, 87, 98, 105, 111, 118, 144, 159

Panama **18 reports requested**

- All reports received: Conventions Nos. 10, 13, 16, 19, 22, 32, 53, 68, 69, 73, 74, 81, 98, 105, 111, 113, 125, (181)

Papua New Guinea **7 reports requested**

- All reports received: Conventions Nos. 10, 19, 22, 29, 98, 105, 122

Paraguay **8 reports requested**

- 1 report received: Convention No. 169
- 7 reports not received: Conventions Nos. 60, 81, 87, 98, 105, 111, 123

Peru **16 reports requested**

- All reports received: Conventions Nos. 10, 19, 53, 62, 69, 71, 73, 81, 98, 100, 102, 105, 111, 113, 139, 152

Philippines **12 reports requested**

- All reports received: Conventions Nos. 19, 53, 87, 94, 98, 100, 105, 111, 118, 144, 149, 157

Poland **16 reports requested**

- All reports received: Conventions Nos. 13, 16, 19, 62, 69, 73, 74, 81, 98, 105, 111, 113, 134, 144, 145, 149

Portugal **16 reports requested**

- All reports received: Conventions Nos. 8, 19, 69, 73, 74, 81, 98, 102, 105, 108, 111, (139), 144, 145, (159), (162)

Qatar **2 reports requested**

All reports received: Conventions Nos. 81, 111

Romania **9 reports requested**

All reports received: Conventions Nos. 13, 16, (22), 81, 98, 105, 111, 134, 144

Russian Federation **12 reports requested**

9 reports received: Conventions Nos. 13, 32, 69, 81, 98, 105, 108, 111, 134
3 reports not received: Conventions Nos. 16, 73, 113

Rwanda **10 reports requested**

All reports received: Conventions Nos. 11, 19, 62, 81, 87, 98, 105, 111, 118, 123

Saint Lucia **21 reports requested**

11 reports received: Conventions Nos. 5, 7, 17, 19, 29, 87, 94, 95, 98, 100, 105
10 reports not received: Conventions Nos. 8, 11, 12, 14, 16, 26, 97, 101, 108, 111

Saint Vincent and the Grenadines **10 reports requested**

No reports received: Conventions Nos. 5, 7, 10, 11, 12, 16, 19, 81, 98, 105

San Marino **4 reports requested**

All reports received: Conventions Nos. 98, 105, 111, 144

Sao Tome and Principe **12 reports requested**

No reports received: Conventions Nos. 17, 18, 19, 81, 87, 88, 98, 100, 106, 111, 144, 159

Saudi Arabia **4 reports requested**

All reports received: Conventions Nos. 81, 105, 111, 123

Senegal **11 reports requested**

All reports received: Conventions Nos. 6, 10, 13, 19, 81, 98, 102, 105, 111, 125, (138)

Seychelles **11 reports requested**

10 reports received: Conventions Nos. 8, (98), (100), 105, (111), (148), 149, (150), (151), (182)
1 report not received: Convention No. 16

Sierra Leone **26 reports requested**

No reports received: Conventions Nos. 8, 16, 17, 19, 22, 26, 29, 32, 45, 58, 59, 81, 87, 88, 94, 95, 98, 99, 100, 101, 105, 111, 119, 125, 126, 144

Singapore **5 reports requested**

All reports received: Conventions Nos. 16, 19, 32, 81, 98

Slovakia **28 reports requested**

8 reports received: Conventions Nos. 52, 87, 95, 98, 105, 138, 155, (182)
20 reports not received: Conventions Nos. 13, 14, 19, 77, 78, 89, 90, 102, 111, 115, 122, 123, 124, 128, 130, 139, 142, 144, 148, 159

Slovenia **18 reports requested**

2 reports received: Conventions Nos. 97, 143
16 reports not received: Conventions Nos. 13, 16, 19, 32, 53, 69, 73, 74, 81, 98, 102, 105, 111, 113, 139, (147)

Solomon Islands **13 reports requested**

No reports received: Conventions Nos. 8, 11, 12, 14, 16, 19, 29, 42, 45, 81, 94, 95, 108

South Africa **4 reports requested**

3 reports received: Conventions Nos. 19, 105, 111
1 report not received: Convention No. 98

Spain

23 reports requested

All reports received: Conventions Nos. 13, 16, 19, 53, 62, 69, 73, 74, 81, 97, 98, 102, 105, 111, 113, 123, 134, 144, 145, 152, 157, 176, (181)

Sri Lanka

7 reports requested

All reports received: Conventions Nos. 16, 81, 87, 98, 111, 115, 144

Sudan

7 reports requested

5 reports received: Conventions Nos. 29, 81, 98, 111, 117
2 reports not received: Conventions Nos. 19, 105

Suriname

8 reports requested

All reports received: Conventions Nos. 13, 19, 62, 81, 98, 105, 118, 144

Swaziland

10 reports requested

2 reports received: Conventions Nos. 98, 111
8 reports not received: Conventions Nos. 11, 19, 29, 81, 96, 105, 123, 144

Sweden

18 reports requested

16 reports received: Conventions Nos. 13, 16, 19, 73, 81, 102, 105, 118, 128, 134, 139, 140, 144, 145, 152, 157
2 reports not received: Conventions Nos. 98, 111

Switzerland

13 reports requested

All reports received: Conventions Nos. 16, 19, 62, 81, 87, (98), 102, 105, 111, 128, 132, (138), 139

Syrian Arab Republic

15 reports requested

All reports received: Conventions Nos. 11, 19, 53, 81, 87, 96, 98, 105, 111, 118, 123, 125, 129, 139, 144

Tajikistan

30 reports requested

No reports received: Conventions Nos. 14, 16, 23, 29, 32, 52, 69, 73, 77, 78, 79, 87, 90, 95, 98, 100, (105), 106, 111, 113, 115, 119, 120, 122, 124, 134, 138, 148, 149, 160

United Republic of Tanzania

21 reports requested

8 reports received: Conventions Nos. 29, 98, 105, (138), 148, 152, (154), (170)
13 reports not received: Conventions Nos. 11, 12, 16, 17, 19, 63, 94, 95, 134, 137, 140, 144, 149

Tanganyika

3 reports requested

No reports received: Conventions Nos. 45, 81, 101

Zanzibar

3 reports requested

No reports received: Conventions Nos. 58, 85, 97

Thailand

4 reports requested

3 reports received: Conventions Nos. 19, 105, 123
1 report not received: Convention No. (100)

The former Yugoslav Republic of Macedonia

50 reports requested

No reports received: Conventions Nos. 8, 11, 12, 13, 14, 16, 19, 22, 23, 24, 25, 27, 29, 32, 45, 53, 56, 69, 73, 74, 81, 87, 88, 89, 90, 97, 98, 100, 102, 106, 111, 113, 114, 121, 122, 129, 132, 136, 138, 139, 140, 142, 143, 148, 155, 156, 158, 159, 161, 162

Togo

5 reports requested

All reports received: Conventions Nos. 13, 98, (105), 111, 144

Trinidad and Tobago

9 reports requested

6 reports received: Conventions Nos. 16, 19, 98, 105, 111, 144
3 reports not received: Conventions Nos. 125, (147), (159)

Tunisia

12 reports requested

7 reports received: Conventions Nos. 13, 16, 62, 73, 98, 105, 113
5 reports not received: Conventions Nos. 19, 81, 111, 118, 127

Turkey **14 reports requested**

All reports received: Conventions Nos. 26, 81, 87, 88, 95, 98, 102, 105, 111, 118, 123, 142, 144, 158

Turkmenistan **6 reports requested**

No reports received: Conventions Nos. (29), (87), (98), (100), (105), (111)

Uganda **12 reports requested**

No reports received: Conventions Nos. 17, 19, 81, 94, 98, 105, 123, 143, 144, 154, 158, 162

Ukraine **13 reports requested**

8 reports received: Conventions Nos. 92, 95, 98, 111, 113, 133, 138, 144
5 reports not received: Conventions Nos. 16, 23, 32, 69, 73

United Arab Emirates **3 reports requested**

All reports received: Conventions Nos. 81, 105, 138

United Kingdom **12 reports requested**

All reports received: Conventions Nos. 16, 19, 32, 69, 74, 81, 98, 102, 105, (111), 124, 144

Anguilla **12 reports requested**
1 report received: Convention No. 87
11 reports not received: Conventions Nos. 14, 19, 22, 23, 29, 94, 97, 98, 101, 105, 140

Bermuda **12 reports requested**
6 reports received: Conventions Nos. 22, 23, 82, 87, 94, 115
6 reports not received: Conventions Nos. 10, 16, 19, 29, 98, 105

British Virgin Islands **4 reports requested**
3 reports received: Conventions Nos. 19, 98, 105
1 report not received: Convention No. 10

Falkland Islands (Malvinas) **10 reports requested**
9 reports received: Conventions Nos. 14, 19, 22, 23, 29, 32, 87, 98, 105
1 report not received: Convention No. 10

Gibraltar **10 reports requested**
8 reports received: Conventions Nos. 16, 19, 22, 23, 87, 98, 100, 105
2 reports not received: Conventions Nos. 29, 81

Guernsey **19 reports requested**
All reports received: Conventions Nos. 10, 16, 19, 22, 24, 25, 29, 32, 56, 69, 74, 81, 87, 97, 98, 105, 114, 115, 122

Isle of Man **22 reports requested**
20 reports received: Conventions Nos. 16, 19, 22, 23, 24, 25, 29, 32, 56, 69, 74, 87, 97, 98, 101, 102, 105, 122, (133), 151
2 reports not received: Conventions Nos. 10, 81

Jersey **18 reports requested**
1 report received: Convention No. 105
17 reports not received: Conventions Nos. 10, 16, 19, 22, 24, 25, 29, 32, 56, 69, 74, 81, 87, 97, 98, 115, 140

Montserrat **9 reports requested**
7 reports received: Conventions Nos. 14, 29, 87, 95, 97, 98, 105
2 reports not received: Conventions Nos. 16, 19

St. Helena **8 reports requested**
All reports received: Conventions Nos. 10, 14, 16, 19, 29, 87, 98, 105

United States **5 reports requested**

All reports received: Conventions Nos. 53, 74, 105, 144, (182)

American Samoa **3 reports requested**
All reports received: Conventions Nos. 53, 74, 144

Guam **3 reports requested**
All reports received: Conventions Nos. 53, 74, 144

Northern Mariana Islands **1 report requested**
All reports received: Convention No. 144

Puerto Rico **3 reports requested**
All reports received: Conventions Nos. 53, 74, 144

United States Virgin Islands **3 reports requested**
All reports received: Conventions Nos. 53, 74, 144

Uruguay **17 reports requested**

16 reports received: Conventions Nos. 13, 16, 32, 62, 73, 81, 98, 105, 111, 113, 118, 128, 134, 139, 144, 151
1 report not received: Convention No. 19

Uzbekistan **11 reports requested**

No reports received: Conventions Nos. (29), (47), (52), (98), (100), (103), (105), (111), (122), (135), (154)

Venezuela **17 reports requested**

All reports received: Conventions Nos. 13, 19, 81, 87, 88, 98, 102, 105, 111, 118, 121, 128, 130, 139, 144, 155, 158

Viet Nam **7 reports requested**

All reports received: Conventions Nos. 6, 14, 81, 100, 111, 123, 124

Yemen **7 reports requested**

All reports received: Conventions Nos. 14, 16, 19, 81, 98, 105, 111

Zambia **8 reports requested**

7 reports received: Conventions Nos. 19, 98, 105, 111, 122, 144, (173)
1 report not received: Convention No. (176)

Zimbabwe **6 reports requested**

4 reports received: Conventions Nos. 19, 81, (111), 144
2 reports not received: Conventions Nos. 98, 105

Grand Total

A total of 2,314 reports (article 22) were requested,
of which 1,513 reports (65.38 per cent) were received.

A total of 391 reports (article 35) were requested,
of which 238 reports (60.87 per cent) were received.

Appendix II. Statistical table of reports received on ratified Conventions as of 7 December 2001

(article 22 of the Constitution)

Conference year	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee of Experts		Reports received in time for the session of the Conference	
1932	447	–		406	90.8%	423	94.6%
1933	522	–		435	83.3%	453	86.7%
1934	601	–		508	84.5%	544	90.5%
1935	630	–		584	92.7%	620	98.4%
1936	662	–		577	87.2%	604	91.2%
1937	702	–		580	82.6%	634	90.3%
1938	748	–		616	82.4%	635	84.9%
1939	766	–		588	76.8%	–	
1944	583	–		251	43.1%	314	53.9%
1945	725	–		351	48.4%	523	72.2%
1946	731	–		370	50.6%	578	79.1%
1947	763	–		581	76.1%	666	87.3%
1948	799	–		521	65.2%	648	81.1%
1949	806	134	16.6%	666	82.6%	695	86.2%
1950	831	253	30.4%	597	71.8%	666	80.1%
1951	907	288	31.7%	507	77.7%	761	83.9%
1952	981	268	27.3%	743	75.7%	826	84.2%
1953	1 026	212	20.6%	840	75.7%	917	89.3%
1954	1 175	268	22.8%	1 077	91.7%	1 119	95.2%
1955	1 234	283	22.9%	1 063	86.1%	1 170	94.8%
1956	1 333	332	24.9%	1 234	92.5%	1 283	96.2%
1957	1 418	210	14.7%	1 295	91.3%	1 349	95.1%
1958	1 558	340	21.8%	1 484	95.2%	1 509	96.8%
As a result of a decision by the Governing Body, detailed reports were requested as from 1959 until 1976 only on certain Conventions.							
1959	995	200	20.4%	864	86.8%	902	90.6%
1960	1 100	256	23.2%	838	76.1%	963	87.4%
1961	1 362	243	18.1%	1 090	80.0%	1 142	83.8%
1962	1 309	200	15.5%	1 059	80.9%	1 121	85.6%
1963	1 624	280	17.2%	1 314	80.9%	1 430	88.0%
1964	1 495	213	14.2%	1 268	84.8%	1 356	90.7%
1965	1 700	282	16.6%	1 444	84.9%	1 527	89.8%
1966	1 562	245	16.3%	1 330	85.1%	1 395	89.3%
1967	1 883	323	17.4%	1 551	84.5%	1 643	89.6%
1968	1 647	281	17.1%	1 409	85.5%	1 470	89.1%
1969	1 821	249	13.4%	1 501	82.4%	1 601	87.9%
1970	1 894	360	18.9%	1 463	77.0%	1 549	81.6%
1971	1 992	237	11.8%	1 504	75.5%	1 707	85.6%
1972	2 025	297	14.6%	1 572	77.6%	1 753	86.5%
1973	2 048	300	14.6%	1 521	74.3%	1 691	82.5%
1974	2 189	370	16.5%	1 854	84.6%	1 958	89.4%
1975	2 034	301	14.8%	1 663	81.7%	1 764	86.7%
1976	2 200	292	13.2%	1 831	83.0%	1 914	87.0%

Conference year	Reports requested	Reports received at the date requested		Reports received in time for the session of the Committee of Experts		Reports received in time for the session of the Conference	
As a result of a decision by the Governing Body (November 1976), detailed reports were requested as from 1977 until 1994, according to certain criteria, at yearly, two-yearly or four-yearly intervals.							
1977	1 529	215	14.0%	1 120	73.2%	1 328	87.0%
1978	1 701	251	14.7%	1 289	75.7%	1 391	81.7%
1979	1 593	234	14.7%	1 270	79.8%	1 376	86.4%
1980	1 581	168	10.6%	1 302	82.2%	1 437	90.8%
1981	1 543	127	8.1%	1 210	78.4%	1 340	86.7%
1982	1 695	332	19.4%	1 382	81.4%	1 493	88.0%
1983	1 737	236	13.5%	1 388	79.9%	1 558	89.6%
1984	1 669	189	11.3%	1 286	77.0%	1 412	84.6%
1985	1 666	189	11.3%	1 312	78.7%	1 471	88.2%
1986	1 752	207	11.8%	1 388	79.2%	1 529	87.3%
1987	1 793	171	9.5%	1 408	78.4%	1 542	86.0%
1988	1 636	149	9.0%	1 230	75.9%	1 384	84.4%
1989	1 719	196	11.4%	1 256	73.0%	1 409	81.9%
1990	1 958	192	9.8%	1 409	71.9%	1 639	83.7%
1991	2 010	271	13.4%	1 411	69.9%	1 544	76.8%
1992	1 824	313	17.1%	1 194	65.4%	1 384	75.8%
1993	1 906	471	24.7%	1 233	64.6%	1 473	77.2%
1994	2 290	370	16.1%	1 573	68.7%	1 879	82.0%
As a result of a decision by the Governing Body (November 1993), detailed reports on only five Conventions were exceptionally requested in 1995.							
1995	1 252	479	38.2%	824	65.8%	988	78.9%
As a result of a decision by the Governing Body (November 1993), reports are henceforth requested, according to certain criteria, at yearly, two-yearly or five-yearly intervals.							
1996	1 806	362	20.5%	1 145	63.3%	1 413	78.2%
1997	1 927	553	28.7%	1 211	62.8%	1 438	74.6%
1998	2 036	463	22.7%	1 264	62.1%	1 455	71.4%
1999	2 288	520	22.7%	1 406	61.4%	1 641	71.7%
2000	2 550	740	29.0%	1 798	70.5%	1 952	76.6%
2001	2 313	598	25.9%	1 513	65.4%		

Appendix III. List of observations made by employers' and workers' organizations

Argentina

	on Conventions Nos.
• Congress of Argentinian Workers (CTA)	87, 169
• Internal Union Committee 000-19 of Telefónica Argentina (CGI 000-19)	3, 111

Barbados

	on Convention No.
• Barbados Employers' Confederation (BEC)	81

Brazil

	on Conventions Nos.
• Association of Labour Inspectors Agents of Minas Gerais (AAIT/MG)	29, 105
• International Confederation of Free Trade Unions (ICFTU)	29

Chile

	on Conventions Nos.
• Federation of Postal Workers	103
• Single Central Organization of Chilean Workers	87, 98

Colombia

	on Conventions Nos.
• Union of State Workers of Colombia	95
• Union of the Administradora de Seguridad Limitada (SINTRACONSEGURIDAD)	95
• Women Foundation of the Informal Sector	88

Comoros

	on Conventions Nos.
• Federation of Autonomous Comoran Workers' Organizations (USATC)	13, 14, 19, 33, 81, 95

Costa Rica

	on Conventions Nos.
• Association of Customs Officers (ASEPA)	81
• Confederation of Workers Rerum Novarum (CTRN)	87, 98, 102
• International Confederation of Free Trade Unions (ICFTU)	98

Croatia

	on Convention No.
• Public Services International	98

Czech Republic

	on Conventions Nos.
• International Confederation of Free Trade Unions (ICFTU)	29, 87, 98, 100, 105, 111,

Finland

	on Convention No.
• Central Organization of Finnish Trade Unions (SAK)	73

France

	on Conventions Nos.
• French Democratic Confederation of Labour (CFDT)	62, 111, 140, 144
• General Confederation of Labour - Force Ouvrière (CGT-FO)	144

Guatemala

	on Conventions Nos.
• Coalition for unionism and popular action	87, 98

India

	on Conventions Nos.
• Hind Mazdoor Sabha (HMS)	81
• International Confederation of Free Trade Unions (ICFTU)	29

Italy

	on Conventions Nos.
• General Confederation of Commerce, Tourism and Services (CONFCOMMERCIO)	118
• General Confederation of Industry (CONFINDUSTRIA)	81, 127
• Italian Confederation of Private Shipowners (CONFITARMA)	139
• Italian General Confederation of Labour (CGIL)	118

Japan

	on Conventions Nos.
• All Japan Shipbuilding and Engineering Union (ALSEU)	29
• Fukuoka Women's Association Union	100
• Japan National Hospital Workers' Union (JNHWU)	87, 98, 100, 156
• Japanese Trade Union Confederation (JTUC-RENGO)	98, 156
• National Railway Motive Power Union of Chiba (DORO-Chiba)	87, 98
• Senshu Union, Nagoya Fureai Union, Ohadate Labour Union, Community Union's National Network, Edogawa Union, Working Women's Part-timers Analysis and Watch	100
• Shonai Economic Federation Labour Union, The Violet Association; Tokyo Union, Zensekiyu Showa Shell Workers Union, Women's Labour Union (Kansai), Shiba Credit Bank Employees Union	100
• Zentoitsu Workers Union	87, 98

Lesotho

	on Conventions Nos.
• Congress of Lesotho Trade Unions (CLTU)	87, 98

Mali

	on Conventions Nos.
• Confederation of Workers' Union of Mali	87, 98

Mauritania

	on Convention No.
• International Confederation of Free Trade Unions (ICFTU)	29

Mauritius

	on Conventions Nos.
• International Confederation of Free Trade Unions (ICFTU)	29, 98, 105, 138, 182
• Mauritius Employers' Federation (MEF)	17, 32, 74, 98, 108, 144
• Mauritius Trade Union Congress	32,,74, 144

Mexico

	on Conventions Nos.
• Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN)	96, 144
• Confederation of Workers of Mexico (CTM)	144
• Independent National Trade Union of Colegio de Bachilleres	169
• Mexican Union of Electricians (SME)	111, 169
• Trade Union of Telephone Operators of the Republic of Mexico, National Union of Employees of the Secretariat of the Environment, Trade Union of Workers of the National Autonomous University of Mexico, Inter-Union Coordinator "First of May", National Union of Workers of the Secretariat of Agriculture, Stockraising, Rural Development, Fishing and Food (Chapter 34)	169

Republic of Moldova

	on Conventions Nos.
• General Federation of Trade Unions of the Republic of Moldova (GFTURM)	29, 105

Myanmar

	on Convention No.
• International Confederation of Free Trade Unions (ICFTU)	29

Netherlands

	on Conventions Nos.
• Netherlands Trade Union Confederation (FNV)	74, 100, 145

New Zealand

	on Conventions Nos.
Business New Zealand	10, 144
New Zealand Council of Trade Unions (NZCTU)	10, 17, 32, 81, 111
New Zealand Employers' Federation (NZEF)	29, 81, 105, 134, 145

Norway

	on Conventions Nos.
Confederation of Trade Unions (LO)	100, 115, 122, 129, 14
Independent Unions' Forum (IUF)	87, 98
Norwegian Federation of Oil Workers' Unions (OFS)	87

Pakistan

	on Conventions Nos.
All Pakistan Federation of Trade Unions (APFTU)	87, 98
International Confederation of Free Trade Unions (ICFTU)	29, 87, 98, 100, 111, 1

Panama

	on Conventions Nos.
National Council of Organized Workers (CONATO)	87, 98
National Federation of Associations and Organizations of Public Servants (FENASEP)	111

Paraguay

	on Convention No.
National Union of Workers (CNT)	169

Peru

	on Conventions Nos.
General Confederation of Workers of Peru (CGTP)	1
Union of Crew Members of Maritime Vessels for the Protection of C.P.V.S.A. Workers	68, 71
World Federation of Trade Unions (WFTU)	102

Portugal

	on Conventions Nos.
Confederation of Portuguese Industry (CIP)	81, 98, 111, 144
General Confederation of Portuguese Workers (CGTP-IN)	81, 98, 102, 122
General Union of Workers (UGT)	98, 111, 122

Slovenia

	on Convention No.
Employers' Association of Slovenia	138

Sri Lanka

	on Conventions Nos.
Employers Federation of Ceylon (EFC)	87, 98
Lanka Jathika Estate Workers' Union (LJEWU)	81, 87, 98, 111, 144

Sudan

	on Conventions Nos.
International Confederation of Free Trade Unions (ICFTU)	29
Sudan Workers' (Legitimate) Trade Unions' Federation	98

Swaziland

	on Conventions Nos.
Federation of Swaziland Employers (FSE)	29, 87, 98
Swaziland Federation of Trade Unions (SFTU)	29

Sweden

	on Conventions Nos.
Swedish Employers' Confederation (SAF)	140
Swedish Trade Union Confederation (LO)	122, 140
Union of Service and Communication (SEKO)	147

Thailand

	on Conventions Nos.
National Congress of Thai Labour	14, 29

Turkey

	on Conventions Nos.
Confederation of Progressive Trade Unions of Turkey (DISK)	144
Confederation of Public Servants Trade Unions (KESK)	87
Confederation of Turkish Trade Unions (TURK-IS)	26, 81, 87, 98, 142, 158
Energy, Road, Construction, Infrastructure, Title Deed Land Survey Public Sector Employees Trade Union (EYYSEN)	87
Turkish Confederation of Employers' Associations (TISK)	26, 81, 87, 88, 95, 98, 102, 105, 111, 123, 142, 144, 158
Turkish Municipal and General Workers Union (TMGWU)	87

Ukraine

	on Convention No.
Free Trade Union of the Voltex Company	95

United Arab Emirates

	on Conventions Nos.
International Confederation of Free Trade Unions (ICFTU)	29, 138

United Kingdom

	on Conventions Nos.
Trades Union Congress (TUC)	98, 105, 144

United States

	on Conventions Nos.
International Confederation of Free Trade Unions (ICFTU)	105, 182

Appendix IV. Information supplied by governments with regard to the obligation to submit the instruments adopted by the International Labour Conference to the competent authorities

(31st to 88th Sessions of the Conference, 1948-2000)

Note. The number of the Convention or Recommendation is given in parentheses, preceded by the letter "C" or "R" as the case may be, when only some of the texts adopted at any one session have been submitted. The Protocols are indicated by the letter "P" followed by the number of the corresponding Convention. When the ratification of a Convention was registered, that Convention and the corresponding Recommendation are considered as submitted.

Account has been taken of the date of admission or readmission of States members to the ILO for determining the sessions of the Conference whose texts are taken into consideration.

The Conference did not adopt any Conventions or Recommendations at its 57th Session (June 1972) and 73rd Session (June 1987).

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Afghanistan	31-56, 58-70	71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88
Albania	31-49, 85, 87	78, 79, 80, 81, 82, 83, 84, 86, 88
Algeria	47-56, 58-72, 74-82, 87	83, 84, 85, 86, 88
Angola	61-72, 74-77, 87	78, 79, 80, 81, 82, 83, 84, 85, 86, 88
Antigua and Barbuda	68-72, 74-82	83, 84, 85, 86, 87, 88
Argentina	31-56, 58-72, 74-83, 87	84, 85, 86, 88
Armenia	–	80, 81, 82, 83, 84, 85, 86, 87, 88
Australia	31-56, 58-72, 74-87	88
Austria	31-56, 58-72, 74-87	88
Azerbaijan	79 (C173), 80-82, 85-87	79 (R180), 83, 84, 88
Bahamas	61-72, 74-84, 86-87	85, 88
Bahrain	63-72, 74-87	88
Bangladesh	58-72, 74-76, 77 (C171; R178), 78, 80, 84 (C178; C180; P147), 85 (C181), 87	77 (C170; P089; R177), 79, 81, 82, 83, 84 (C179; R185; R186; R187), 85 (R188), 86, 88
Barbados	51-56, 58-72, 74-88	–
Belarus	37-56, 58-72, 74-88	–
Belgium	31-56, 58-72, 74-75, 77-87	76, 88
Belize	68-72, 74-76, 87	77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88
Benin	45-56, 58-72, 74-85, 87	86, 88
Bolivia	31-56, 58-72, 74-79	80, 81, 82, 83, 84, 85, 86, 87, 88
Bosnia and Herzegovina	87	80, 81, 82, 83, 84, 85, 86, 88
Botswana	64-72, 74-87	88
Brazil	31-50, 51 (C127; R128; R129; R130; R131), 53 (R133; R134), 54-56, 58-62, 63 (C148; R156; R157), 64 (R158; R159), 65-66, 67 (C154; C155; R163; R164; R165), 68 (C158; P110; R166), 69-72, 74-77, 80, 87	51 (C128), 52, 53 (C129; C130), 63 (C149), 64 (C150; C151), 67 (C156), 68 (C157), 78, 79, 81, 82, 83, 84, 85, 86, 88
Bulgaria	31-56, 58-72, 74-88	–
Burkina Faso	45-56, 58-72, 74-87	88
Burundi	47-56, 58-72, 74-77, 78 (R179), 79-81, 82 (C176; P081)	78 (C172), 82 (R183), 83, 84, 85, 86, 87, 88
Cambodia	53-54, 56, 58 (C138; R146), 64 (C150; R158)	55, 58 (C137; R145), 59, 60, 61, 62, 63, 64 (C151; R159), 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88
Cameroon	44-56, 58-68, 72, 74	69, 70, 71, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88
Canada	31-56, 58-72, 74-88	–
Cape Verde	65-72, 74-81, 87	82, 83, 84, 85, 86, 88
Central African Republic	45-56, 58-72, 74, 87	75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88
Chad	45-56, 58-72, 74-79, 84-87	80, 81, 82, 83, 88
Chile	31-56, 58-72, 74-82, 87	83, 84, 85, 86, 88
China	31-56, 58-72, 74-87	88

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Colombia	31-56, 58-72, 74, 75 (C167; R175; R176), 76-78, 79 (R180), 80, 81 (C175)	75 (C168), 79 (C173), 81 (R182), 82, 83, 84, 85, 86, 87, 88
Comoros	65-72, 74-78	79, 80, 81, 82, 83, 84, 85, 86, 87, 88
Congo	45-53, 54 (C131; C132), 55 (C133; C134), 56, 58 (C138; R146), 59, 60 (C142), 61, 63 (C148; C149; R157), 64-66, 67 (C154; C155; C156), 68 (C158), 71 (C160; C161), 75 (C167; C168), 76	54 (R135; R136), 55 (R137; R138; R139; R140; R141; R142), 58 (C137; R145), 60 (C141; C143; R149; R150; R151), 62, 63 (R156), 67 (R163; R164; R165), 68 (C157; P110; R166), 69, 70, 71 (R170; R171), 72, 74, 75 (R175; R176), 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88
Costa Rica	31-56, 58-72, 74-82, 83 (R184), 84 (P147; R185; R186; R187), 85 (R188), 86-88	83 (C177), 84 (C178; C179; C180), 85 (C181)
Côte d'Ivoire	45-56, 58-72, 74-82	83, 84, 85, 86, 87, 88
Croatia	80-85, 87	86, 88
Cuba	31-56, 58-72, 74-87	88
Cyprus	45-56, 58-72, 74-87	88
Czech Republic	80-88	–
Democratic Republic of the Congo	45-56, 58-72, 74-82, 87	83, 84, 85, 86, 88
Denmark	31-56, 58-72, 74-87	88
Djibouti	64-65, 67, 71-72, 83	66, 68, 69, 70, 74, 75, 76, 77, 78, 79, 80, 81, 82, 84, 85, 86, 87, 88
Dominica	68-72, 74-79, 87	80, 81, 82, 83, 84, 85, 86, 88
Dominican Republic	31-56, 58-72, 74-88	–
Ecuador	31-56, 58-72, 74-76, 77 (C170, C171; R177; R178), 78-81, 82 (C176, R183), 83-88	77 (P089), 82 (P081)
Egypt	31-56, 58-72, 74-88	–

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
El Salvador	31-56, 58-61, 63 (C149), 64 (C150), 67 (C155; C156; R164; R165), 69 (C159; R168), 71-72, 74-81, 87	62, 63 (C148; R156; R157), 64 (C151; R158; R159), 65, 66, 67 (C154; R163), 68, 69 (R167), 70, 82, 83, 84, 85, 86, 88
Equatorial Guinea	67-72, 74-79, 84, 87	80, 81, 82, 83, 85, 86, 88
Eritrea	80, 87	81, 82, 83, 84, 85, 86, 88
Estonia	79-88	–
Ethiopia	31-56, 58-72, 74-87	88
Fiji	59-72, 74-82	83, 84, 85, 86, 87, 88
Finland	31-56, 58-72, 74-88	–
France	31-56, 58-72, 74-83, 87	84, 85, 86, 88
Gabon	45-56, 58-72, 75-81, 87	74, 82, 83, 84, 85, 86, 88
Gambia	87	82, 83, 84, 85, 86, 88
Georgia	86	80, 81, 82, 83, 84, 85, 87, 88
Germany	34-56, 58-72, 74, 75 (C167; R175), 76, 80-88	75 (C168; R176), 77, 78, 79
Ghana	40-56, 58-72, 74-79, 83, 84 (C178; C179; C180; P147; R187), 85-87	80, 81, 82, 84 (R185; R186), 88
Greece	31-56, 58-72, 74-88	–
Grenada	66-72, 74-80	81, 82, 83, 84, 85, 86, 87, 88
Guatemala	31-56, 58-72, 75 (C167; R175), 76, 78 (R179), 79, 80 (R181), 81 (R182), 82-83, 84 (C179), 85 (C181), 87	74, 75 (C168; R176), 77, 78 (C172), 80 (C174), 81 (C175), 84 (C178; C180; P147; R185; R186; R187), 85 (R188), 86, 88
Guinea	43-56, 58-72, 74-83	84, 85, 86, 87, 88
Guinea-Bissau	63-72, 74-78, 79 (C173), 80 (C174), 81 (C175), 84 (C179), 85 (C181), 87	79 (R180), 80 (R181), 81 (R182), 82, 83, 84 (C178; C180; P147; R185; R186; R187), 85 (R188), 86, 88
Guyana	50-56, 58-72, 74-85, 87	86, 88
Haiti	31-56, 58-66, 67 (C156; R165), 69-72, 74, 75 (C167)	67 (C154; C155; R163; R164), 68, 75 (C168; R175; R176), 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Honduras	39-56, 58-66, 67 (C154; C155; C156), 68-69, 71-72, 74 (C164; C165; C166; R174), 75 (C167; C168), 76-85, 87	67 (R163; R164; R165), 70, 74 (C163; R173), 75 (R175; R176), 86, 88
Hungary	31-56, 58-72, 74-87	88
Iceland	31-56, 58-72, 74-87	88
India	31-56, 58-72, 74-77, 83-86	78, 79, 80, 81, 82, 87, 88
Indonesia	33-56, 58-72, 74-87	88
Islamic Republic of Iran	31-56, 58-72, 74-83, 85	84, 86, 87, 88
Iraq	31-56, 58-72, 74-84, 85 (C181), 86-87	85 (R188), 88
Ireland	31-56, 58-72, 74-87	88
Israel	32-56, 58-72, 74-88	–
Italy	31-56, 58-72, 74-88	–
Jamaica	47-56, 58-72, 74-87	88
Japan	35-56, 58-72, 74-88	–
Jordan	39-56, 58-72, 74-88	–
Kazakhstan	–	80, 81, 82, 83, 84, 85, 86, 87, 88
Kenya	48-56, 58-72, 74-81, 82 (C176; R183), 83, 84 (C178; C179; C180; R185; R186; R187), 85-87	82 (P081), 84 (P147), 88
Kiribati	–	88
Republic of Korea	79-88	–
Kuwait	45-56, 58-72, 74-76, 78-79, 80 (C174), 81-85, 87-88	77, 80 (R181), 86
Kyrgyzstan	–	79, 80, 81, 82, 83, 84, 85, 86, 87, 88
Lao People's Democratic Republic	48-56, 58-72, 74-81	82, 83, 84, 85, 86, 87, 88
Latvia	80	79, 81, 82, 83, 84, 85, 86, 87, 88
Lebanon	31 (C088; C089; C090; R083), 32-56, 58-72, 74-88	31 (C087)

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Lesotho	51-53, 66-72, 74-81, 82 (C176, R183), 83-87	82 (P081), 88
Liberia	31-56, 58-72, 74-76, 77 (C170; C171; R177; R178), 78-81, 82 (C176; R183), 83, 84 (C178; C179; C180; R185; R186; R187), 85-87	77 (P089), 82 (P081), 84 (P147), 88
Libyan Arab Jamahiriya	35-56, 58-72, 74-82, 87	83, 84, 85, 86, 88
Lithuania	79-88	–
Luxembourg	31-56, 58-72, 74-87	88
Madagascar	45-54, 56, 58-68, 69 (C159; R168), 70, 79, 87	55, 69 (R167), 71, 72, 74, 75, 76, 77, 78, 80, 81, 82, 83, 84, 85, 86, 88
Malawi	49-56, 58-72, 74-81, 87	82, 83, 84, 85, 86, 88
Malaysia	41-56, 58-72, 74-88	–
Mali	44-56, 58-72, 74-78, 82-83, 84 (C178; C179; C180; R185; R186; R187), 87	79, 80, 81, 84 (P147), 85, 86, 88
Malta	49-56, 58-72, 74-88	–
Mauritania	45-56, 58-72, 74-80, 87	81, 82, 83, 84, 85, 86, 88
Mauritius	53-56, 58-72, 74-88	–
Mexico	31-56, 58-72, 74-88	–
Republic of Moldova	79-83, 84 (C178; C179; C180; R185; R186; R187), 85-88	84 (P147)
Mongolia	52-56, 58-72, 74-81, 87	82, 83, 84, 85, 86, 88
Morocco	39-56, 58-72, 74-81, 82 (C176; R183), 83-87	82 (P081), 88
Mozambique	61-72, 74-82, 87 (C182)	83, 84, 85, 86, 87 (R190), 88
Myanmar	31-56, 58-72, 74-87	88
Namibia	78-87	88
Nepal	51-56, 58-72, 74-81, 83, 85, 87	82, 84, 86, 88
Netherlands	31-56, 58-72, 74-88	–
New Zealand	31-56, 58-72, 74-88	–

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Nicaragua	40-56, 58-72, 74-88	–
Niger	45-56, 58-72, 74-82, 87	83, 84, 85, 86, 88
Nigeria	45-56, 58-72, 74-79, 81-82	80, 83, 84, 85, 86, 87, 88
Norway	31-56, 58-72, 74-88	–
Oman	81-88	–
Pakistan	31-56, 58-72, 74-80, 87	81, 82, 83, 84, 85, 86, 88
Panama	31-56, 58-72, 74-87	88
Papua New Guinea	61-72, 74-87	88
Paraguay	40-56, 58-72, 74-84, 87	85, 86, 88
Peru	31-56, 58-72, 74-83, 85-87	84, 88
Philippines	31-56, 58-72, 74-88	–
Poland	31-56, 58-72, 74-88	–
Portugal	31-56, 58-72, 74-87	88
Qatar	58-72, 74-87	88
Romania	39-56, 58-72, 74-88	–
Russian Federation	37-56, 58-72, 74-88	–
Rwanda	47-56, 58-72, 74-79, 81, 87	80, 82, 83, 84, 85, 86, 88
Saint Kitts and Nevis	87	83, 84, 85, 86, 88
Saint Lucia	67 (C154; R163), 68 (C158; R166), 87	66, 67 (C155; C156; R164; R165), 68 (C157; P110), 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88
Saint Vincent and the Grenadines	86, 87	82, 83, 84, 85, 88
San Marino	69-72, 74-87	88
Sao Tome and Principe	68-72, 74-76	77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88
Saudi Arabia	61-72, 74-88	–
Senegal	44-56, 58-72, 74-78, 87	79, 80, 81, 82, 83, 84, 85, 86, 88
Seychelles	63-72, 74-88	–

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Sierra Leone	45-56, 58-61, 62 (C145; C147; R153; R155)	62 (C146; R154), 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88
Singapore	50-56, 58-72, 74-88	–
Slovakia	80-83, 86-88	84, 85
Slovenia	79-83, 84 (C179), 87-88	84 (C178; C180; P147; R185; R186; R187), 85, 86
Solomon Islands	74	70, 71, 72, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88
Somalia	45-56, 58-72, 74-75	76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88
South Africa	31-50, 81-82, 87	83, 84, 85, 86, 88
Spain	39-56, 58-62, 63 (C148; R156), 64-72, 74, 75 (C167; R175), 76-79, 82, 85, 87	63 (C149; R157), 75 (C168; R176), 80, 81, 83, 84, 86, 88
Sri Lanka	31-56, 58-72, 74-87	88
Sudan	39-56, 58-72, 74-80, 87	81, 82, 83, 84, 85, 86, 88
Suriname	61-72, 74-80	81, 82, 83, 84, 85, 86, 87, 88
Swaziland	60-72, 74-81, 82 (C176; R183), 83	82 (P081), 84, 85, 86, 87, 88
Sweden	31-56, 58-72, 74-87	88
Switzerland	31-56, 58-72, 74-88	–
Syrian Arab Republic	31-56, 58-65, 67-69, 71-72, 74-76	66, 70, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88
Tajikistan	81-83, 86	84, 85, 87, 88
United Republic of Tanzania	46-56, 58-65, 67 (C154; R163), 69-71, 76, 77 (C170; R177), 82 (P081), 87	66, 67 (C155; C156; R164; R165), 68, 72, 74, 75, 77 (C171; P089; R178), 78, 79, 80, 81, 82 (C176; R183), 83, 84, 85, 86, 88
Thailand	31-56, 58-72, 74-82, 87	83, 84, 85, 86, 88
The former Yugoslav Republic of Macedonia	80-82	83, 84, 85, 86, 87, 88
Togo	44-56, 58-72, 74-87	88

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Trinidad and Tobago	47-56, 58-72, 74-88	–
Tunisia	39-56, 58-72, 74-88	–
Turkey	31-56, 58-72, 74-88	–
Turkmenistan	–	81, 82, 83, 84, 85, 86, 87, 88
Uganda	47-56, 58-72, 74-80, 87	81, 82, 83, 84, 85, 86, 88
Ukraine	37-56, 58-72, 74-88	–
United Arab Emirates	58-72, 74-88	–
United Kingdom	31-56, 58-72, 74-88	–
United States	31-56, 58-60, 66-72, 74-87	88
Uruguay	31-56, 58-72, 74-79, 81, 82 (P081), 84, 87	80, 82 (C176; R183), 83, 85, 86, 88
Uzbekistan	–	80, 81, 82, 83, 84, 85, 86, 87, 88
Venezuela	31-56, 58-70, 71 (C160; R170; R171), 72, 74 (R173), 75 (C167; R175), 76, 77 (C170; R177), 78 (R179), 80, 82 (C176; R183)	71 (C161), 74 (C163; C164; C165; C166; R174), 75 (C168; R176), 77 (C171; P089; R178), 78 (C172), 79, 81, 82 (P081), 83, 84, 85, 86, 87, 88
Viet Nam	33-56, 58-63, 80-88	–
Yemen	49-56, 58-72, 74-76, 77 (C170; C171; R177; R178), 78-81, 82 (C176; R183), 83, 84 (C178; C179; C180; R185; R186; R187), 85-87	77 (P089), 82 (P081), 84(P147), 88
Zambia	49-56, 58-72, 74-82, 87	83, 84, 85, 86, 88
Zimbabwe	66-72, 74-83, 84 (C178; C179; P147; R185; R186), 85-87	84 (C180; R187), 88

Appendix V. Overall position of member States as of 7 December 2001

Sessions at which decisions were adopted	Number of States in which, according to information supplied by the government: all the texts have been submitted	some of these texts have been submitted	none of these texts have been submitted (including cases in which no information has been supplied by the government)	Number of States which were Members of the Organization at the time of the session
31 (June 1948)	59	1		60
32 (June 1949)	61			61
33 (June 1950)	63			63
34 (June 1951)	64			64
35 (June 1952)	66			66
36 (June 1953)	66			66
37 (June 1954)	69			69
38 (June 1955)	69			69
39 (June 1956)	76			76
40 (June 1957)	79			79
41 (April 1958)	80			80
42 (June 1958)	80			80
43 (June 1959)	81			81
44 (June 1960)	85			85
45 (June 1961)	101			101
46 (June 1962)	102			102
47 (June 1963)	108			108
48 (June 1964)	110			110
49 (June 1965)	114			114
50 (June 1966)	115			115
51 (June 1967)	116	1		117

Sessions at which decisions were adopted	Number of States in which, according to information supplied by the government:			Number of States which were Members of the Organization at the time of the session
	all the texts have been submitted	some of these texts have been submitted	none of these texts have been submitted (including cases in which no information has been supplied by the government)	
52 (June 1968)	117		1	118
53 (June 1969)	120	1		121
54 (June 1970)	119	1		120
55 (October 1970)	117	1	2	120
56 (June 1971)	120			120
58 (June 1973)	121	2		123
59 (June 1974)	124		1	125
60 (June 1975)	124	1	1	126
61 (June 1976)	130		1	131
62 (October 1976)	127	1	3	131
63 (June 1977)	128	4	2	134
64 (June 1978)	131	3	1	135
65 (June 1979)	134		3	137
66 (June 1980)	135		7	142
67 (June 1981)	134	7	2	143
68 (June 1982)	138	3	6	147
69 (June 1983)	139	3	6	148
70 (June 1984)	138		11	149
71 (June 1985)	139	2	8	149
72 (June 1986)	140		9	149
74 (September 1987)	136	2	11	149
75 (June 1988)	130	8	11	149
76 (June 1989)	133		14	147
77 (June 1990)	122	6	19	147

Sessions at which decisions were adopted	Number of States in which, according to information supplied by the government: all the texts have been submitted	some of these texts have been submitted	none of these texts have been submitted (including cases in which no information has been supplied by the government)	Number of States which were Members of the Organization at the time of the session
78 (June 1991)	123	3	23	149
79 (June 1992)	125	3	28	156
80 (June 1993)	126	3	38	167
81 (June 1994)	121	3	47	171
82 (June 1995)	107	11	55	173
83 (June 1996)	101	1	72	174
84 (October 1996)	85	12	77	174
85 (June 1997)	92	5	77	174
86 (June 1998)	90		84	174
87 (June 1999)	136	1	37	174
88 (May-June 2000)	48		127	175

Appendix VI. Summary of information supplied by governments with regard to the obligation to submit the instruments adopted by the International Labour Conference to the competent authorities[1]

Article 19 of the Constitution of the International Labour Organization prescribes, in paragraphs 5, 6 and 7, that Members shall bring the Conventions, Recommendations and Protocols adopted by the International Labour Conference before the competent authorities within a specified period. Under the same provisions, the governments of member States shall inform the Director-General of the International Labour Office of the measures taken to submit the instruments to the competent authorities, and also communicate particulars of the authority or authorities regarded as competent, and of the action taken by them.

In accordance with article 23 of the Constitution, a summary of the information communicated in pursuance of article 19 is submitted to the Conference.

At its 267th Session (November 1996), the Governing Body approved new measures for rationalization and simplification. In this connection, the summarized information appears in an appendix to the report of the Committee of Experts on the Application of Conventions and Recommendations.

The present summary contains information relating to the submission to the competent authorities of the instruments adopted by the Conference at its 87th (June 1999) and 88th (May-June 2000) Sessions. The period of 12 months provided for the submission to the competent authorities of the instruments on the worst forms of child labour adopted at the 87th Session expired on 17 June 2000, and the period of 18 months on 17 December 2000.

The period of 12 months provided for the submission to the competent authorities of the instruments on maternity protection adopted at the 88th Session expired on 15 June 2001, and the period of 18 months will expire on 15 December 2001.

This summarized information consists of communications which were forwarded to the Director-General of the International Labour Office after the closure of the 90th Session of the Conference (Geneva, June 2001) and which could not, therefore, be laid before the Conference at that session.

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[1] This summary relates to the instruments adopted at the following sessions of the Conference:

87th Session (1999)

Worst Forms of Child Labour Convention (No. 182);

Worst Forms of Child Labour Recommendation (No. 190).

88th Session (2000)

Maternity Protection Convention (No. 183);

Maternity Protection Recommendation (No. 191).

Albania. The ratification of Convention No. 182 was registered on 2 August 2001.

Algeria. The ratification of Convention No. 182 was registered on 9 February 2001.

Angola. The ratification of Convention No. 182 was registered on 13 June 2001.

Argentina. The ratification of Convention No. 182 was registered on 6 February 2001.

Australia. The instruments adopted at the 87th Session of the Conference were submitted to the House of Representatives and the Senate of the Parliament of the Commonwealth of Australia on 7 December 2000.

Austria. The National Council approved the ratification of Convention No. 182 in October 2001.

Azerbaijan. The instruments adopted at the 87th Session of the Conference were submitted to the National Assembly, the Milli Mejlis.

Bahamas. The ratification of Convention No. 182 was registered on 14 June 2001.

Bahrain. The ratification of Convention No. 182 was registered on 23 March 2001. The instruments adopted at the 88th Session of the Conference have been submitted to a competent authority.

Bangladesh. The ratification of Convention No. 182 was registered on 12 March 2001.

Barbados. The ratification of Convention No. 182 was registered on 23 October 2000. The instruments adopted at the 88th Session of the Conference were submitted to the Parliament on 28 November 2000.

Belarus. The ratification of Convention No. 182 was registered on 31 October 2000. The instruments adopted at the 84th, 85th and 88th Sessions of the Conference were submitted to the House of Representatives of the National Assembly on 29 August 2001.

Belgium. The instruments adopted at the 87th Session of the Conference were transmitted to the House of Representatives and the Senate in November and December 1999.

Belize. The ratification of Convention No. 182 was registered on 6 March 2000.

Benin. The ratification of Convention No. 182 was registered on 6 November 2001.

Bosnia and Herzegovina. The ratification of Convention No. 182 was registered on 5 October 2001.

Botswana. The ratification of Convention No. 182 was registered on 3 January 2000.

Brazil. The ratification of Convention No. 182 was registered on 2 February 2000.

Bulgaria. The ratifications of Conventions Nos. 182 and 183 were registered on 28 July 2000 and on 6 December 2001, respectively.

Burkina Faso. The ratification of Convention No. 182 was registered on 25 July 2001.

Canada. The ratification of Convention No. 182 was registered on 6 June 2000.

Cape Verde. The ratification of Convention No. 182 was registered on 23 October 2001.

Central African Republic. The ratification of Convention No. 182 was registered on 28 June 2000.

Chad. The ratification of Convention No. 182 was registered on 6 November 2000.

Chile. The ratification of Convention No. 182 was registered on 17 July 2000.

China. The instruments adopted at the 87th and 88th Sessions of the Conference were submitted to the State Council and to the Permanent Commission of the National People's Congress on 5 April 2000 and 11 April 2001, respectively.

Costa Rica. The ratification of Convention No. 182 was registered on 10 September 2001. The instruments adopted at the 88th Session were submitted to the Legislative Assembly on 8 October 2001.

Croatia. The ratification of Convention No. 182 was registered on 17 July 2001.

Cuba. The instruments adopted at the 87th Session of the Conference have been submitted to a competent authority.

Cyprus. The ratification of Convention No. 182 was registered on 27 November 2000.

Czech Republic. The ratification of Convention No. 182 was registered on 19 June 2001. The instruments adopted at the 88th Session of the Conference were submitted to Parliament on 26 June 2001.

Democratic Republic of the Congo. The ratification of Convention No. 182 was registered on 20 June 2001.

Denmark. The ratification of Convention No. 182 was registered on 14 August 2000.

Dominica. The ratification of Convention No. 182 was registered on 4 January 2001.

Dominican Republic. The ratification of Convention No. 182 was registered on 15 November 2000. The instruments adopted at the 88th Session of the Conference were submitted to the National Congress on 20 September 2000.

Ecuador. The ratification of Convention No. 182 was registered on 19 September 2000. The instruments adopted at the 88th Session of the Conference were submitted to the National Congress on 2 October 2001.

Egypt. The instruments adopted at the 87th and 88th Sessions of the Conference were submitted to the People's Assembly on 19 October 1999 and 24 September 2000, respectively.

El Salvador. The ratification of Convention No. 182 was registered on 12 October 2000.

Equatorial Guinea. The ratification of Convention No. 182 was registered on 13 August 2001.

Estonia. The ratification of Convention No. 182 was registered on 24 September 2001. The instruments adopted at the 88th Session of the Conference were submitted to Parliament on 24 April 2001.

Ethiopia. The instruments adopted at the 87th Session of the Conference were submitted to the House of People's Representatives on 16 May 2000.

Finland. The ratification of Convention No. 182 was registered on 17 January 2000. The instruments adopted at the Conference at the 88th Session were submitted to Parliament on 1 June 2001.

France. The ratification of Convention No. 182 was registered on 11 September 2001.

Gabon. The ratification of Convention No. 182 was registered on 28 March 2001.

Gambia. The ratification of Convention No. 182 was registered on 3 July 2001.

Germany. The instruments adopted at the 87th Session of the Conference were submitted to the Bundestag and Bundesrat on 22 February 2000.

Ghana. The ratification of Convention No. 182 was registered on 13 June 2000.

Greece. The ratification of Convention No. 182 was registered on 6 November 2001. The instruments adopted at the 88th Session of the Conference were submitted to the Chamber of Deputies on 1 November 2001.

Guatemala. The ratification of Convention No. 182 was registered on 11 October 2001.

Guinea-Bissau. The instruments adopted by the Conference at its 87th Session were submitted to the National Popular Assembly on 15 October 2001.

Guyana. The ratification of Convention No. 182 was registered on 15 January 2001.

Honduras. The ratification of Convention No. 182 was registered on 25 October 2001.

Hungary. The ratification of Convention No. 182 was registered on 20 April 2000.

Iceland. The ratification of Convention No. 182 was registered on 29 May 2000.

Indonesia. The ratification of Convention No. 182 was registered on 28 March 2000.

Iraq. The ratification of Convention No. 182 was registered on 9 July 2001.

Ireland. The ratification of Convention No. 182 was registered on 20 December 1999.

Israel. The instruments adopted at the 87th and 88th Sessions of the Conference were submitted to the Knesset on 5 June 2001 and 17 December 2000, respectively.

Italy. The ratification of Conventions Nos. 182 and 183 were registered on 7 June 2000 and 7 February 2001, respectively.

Jamaica. The instruments adopted at the 87th Session of the Conference were submitted to Parliament in March 2000.

Japan. The ratification of Convention No. 182 was registered on 18 June 2001. The instruments adopted at the 88th Session of the Conference were submitted to the Diet on 29 May 2001.

Jordan. The ratification of Convention No. 182 was registered on 20 April 2000. The instruments adopted at the 88th Session of the Conference have been submitted to a competent authority.

Kenya. The ratification of Convention No. 182 was registered on 7 May 2001.

Republic of Korea. The ratification of Convention No. 182 was registered on 29 March 2001. The instruments adopted at the 88th Session of the Conference have been submitted to the National Assembly.

Kuwait. The ratification of Convention No. 182 was registered on 15 August 2000. The instruments adopted at the 88th Session of the Conference have been submitted to a competent authority.

Lebanon. The ratification of Convention No. 182 was registered on 11 September 2001. The instruments adopted at the 88th Session of the Conference were submitted to the National Assembly on 31 August 2001.

Lesotho. The ratification of Convention No. 182 was registered on 14 June 2001.

Liberia. The instruments adopted at the 87th Session of the Conference were submitted to the Senate in March 2000.

Libyan Arab Jamahiriya. The ratification of Convention No. 182 was registered on 4 October 2000.

Lithuania. The instruments adopted at the 87th and 88th Sessions of the Conference were submitted to the Seimas on 4 May 2000 and 22 October 2001, respectively.

Luxembourg. The ratification of Convention No. 182 was registered on 21 March 2001.

Madagascar. The ratification of Convention No. 182 was registered on 4 October 2001.

Malawi. The ratification of Convention No. 182 was registered on 19 November 1999.

Malaysia. The ratification of Convention No. 182 was registered on 10 November 2000. The instruments adopted at the 88th Session of the Conference have been submitted to Parliament.

Mali. The ratification of Convention No. 182 was registered on 14 July 2000.

Malta. The ratification of Convention No. 182 was registered on 15 June 2001. The instruments adopted at the 88th Session of the Conference were submitted to the House of Representatives on 28 May 2001.

Mauritania. The ratification of Convention No. 182 was registered on 3 December 2001.

Mauritius. The ratification of Convention No. 182 was registered on 7 June 2000. The instruments adopted at the 88th Session of the Conference were submitted to the National Assembly on 20 November 2001.

Mexico. The ratification of Convention No. 182 was registered on 30 June 2000. The instruments adopted at the 88th Session of the Conference were submitted to the Senate on 13 November 2000.

Republic of Moldova. The instruments adopted at the 87th and 88th Sessions of the Conference were submitted to Parliament on 21 August 2000 and 15 June 2001, respectively.

Mongolia. The ratification of Convention No. 182 was registered on 26 February 2001.

Morocco. The ratification of Convention No. 182 was registered on 26 January 2001. The Government is proceeding to the ratification of Convention No. 183.

Mozambique. Convention No. 182 has been submitted to the National Assembly.

Myanmar. The instruments adopted at the 87th Session of the Conference were submitted to a competent authority on 31 October 2000.

Namibia. The ratification of Convention No. 182 was registered on 15 November 2000. The instruments adopted at the 88th Session of the Conference were submitted to the National Assembly on 8 November 2001.

Nepal. The instruments adopted at the 87th Session of the Conference have been submitted to the House of Representatives.

Netherlands. The instruments adopted at the 87th and 88th Sessions of the Conference were submitted to Parliament on 8 May 2000 and on 11 October 2001, respectively.

New Zealand. The ratification of Convention No. 182 was registered on 14 June 2001.

Nicaragua. The ratification of Convention No. 182 was registered on 6 November 2000. The instruments adopted at the 88th Session of the Conference were submitted to the National Assembly on 11 and 20 July 2001.

Niger. The ratification of Convention No. 182 was registered on 23 October 2000.

Norway. The ratification of Convention No. 182 was registered on 21 December 2000. The instruments adopted at the 88th Session of the Conference were submitted to the Storting (Parliament) on 27 April 2001.

Oman. The ratification of Convention No. 182 was registered on 11 June 2001. The instruments adopted at the 88th Session of the Conference have been submitted to a competent authority.

Pakistan. The ratification of Convention No. 182 was registered on 11 October 2001.

Panama. The ratification of Convention No. 182 was registered on 31 October 2000.

Papua New Guinea. The ratification of Convention No. 182 was registered on 2 June 2000.

Paraguay. The ratification of Convention No. 182 was registered on 7 March 2001.

Peru. The instruments adopted at the 87th Session of the Conference have been submitted and the Congress of the Republic is examining the ratification of Convention No. 182.

Philippines. The ratification of Convention No. 182 was registered on 28 November 2000. The instruments adopted at the 88th Session of the Conference were submitted to the House of Representatives and the Senate on 9 April 2001.

Poland. The instruments adopted at the 87th and 88th Sessions of the Conference were submitted to the Sejm on 30 September 1999 and 21 February 2001, respectively.

Portugal. The ratification of Convention No. 182 was registered on 15 June 2000.

Qatar. The ratification of Convention No. 182 was registered on 30 May 2000.

Romania. The ratification of Convention No. 182 was registered on 13 December 2000. The instruments adopted at the 88th Session of the Conference were submitted to the House of Representatives on 15 March 2001 and to the Senate on 14 February 2001.

Russian Federation. The instruments adopted at the 87th and 88th Sessions of the Conference were submitted to the State Duma of the Federal Assembly on 24 May 2000 and 28 May 2001, respectively.

Rwanda. The ratification of Convention No. 182 was registered on 23 May 2000.

Saint Kitts and Nevis. The ratification of Convention No. 182 was registered on 12 October 2000.

Saint Lucia. The ratification of Convention No. 182 was registered on 6 December 2000.

Saint Vincent and the Grenadines. The ratification of Convention No. 182 was registered on 4 December 2001.

San Marino. The ratification of Convention No. 182 was registered on 15 March 2000.

Saudi Arabia. The ratification of Convention No. 182 was registered on 8 October 2001. The instruments adopted at the 88th Session of the Conference have been submitted to a competent authority.

Senegal. The ratification of Convention No. 182 was registered on 1 June 2000.

Seychelles. The ratification of Convention No. 182 was registered on 28 September 1999. The instruments adopted at the 88th Session of the Conference were submitted to the National Assembly on 12 June 2001.

Singapore. The ratification of Convention No. 182 was registered on 14 June 2001. The instruments adopted at the 88th Session of the Conference have been submitted to Parliament.

Slovakia. The ratifications of Conventions Nos. 182 and 183 were registered on 20 December 1999 and 12 December 2000, respectively.

Slovenia. The ratification of Convention No. 182 was registered on 8 May 2001. The instruments adopted at the 88th Session of the Conference were submitted to Parliament on 11 January 2001.

South Africa. The ratification of Convention No. 182 was registered on 7 June 2000.

Spain. The ratification of Convention No. 182 was registered on 2 April 2001.

Sri Lanka. The ratification of Convention No. 182 was registered on 1 March 2001.

Sudan. The instruments adopted at the 87th Session of the Conference have been submitted to the competent authorities.

Sweden. The instruments adopted at the 85th, 86th and 87th Sessions of the Conference were submitted to Parliament in March 2001.

Switzerland. The ratification of Convention No. 182 was registered on 28 June 2000. The instruments adopted at the 88th Session of the Conference have been submitted to Parliament.

United Republic of Tanzania. The ratification of Convention No. 182 was registered on 12 September 2001.

Thailand. The ratification of Convention No. 182 was registered on 16 February 2001.

Togo. The ratification of Convention No. 182 was registered on 19 September 2000.

Trinidad and Tobago. The instruments adopted at the 86th, 87th and 88th Sessions of the Conference were submitted to the House of Representatives and to the Senate on 20 and 19 September 2000, respectively.

Tunisia. The ratification of Convention No. 182 was registered on 28 February 2000. The instruments adopted at the 88th Session of the Conference were submitted to the House of Representatives on 8 November 2000.

Turkey. The ratification of Convention No. 182 was registered on 2 August 2001. The instruments adopted at the 88th Session of the Conference were submitted to the Grand National Assembly on 15 December 2000.

Uganda. The ratification of Convention No. 182 was registered on 21 June 2001.

Ukraine. The ratification of Convention No. 182 was registered on 14 December 2000. The instruments adopted at the 88th Session of the Conference were submitted to the Supreme Council on 10 September 2001.

United Arab Emirates. The ratification of Convention No. 182 was registered on 28 June 2001. The instruments adopted at the 88th Session of the Conference have been submitted to a competent authority.

United Kingdom. The ratification of Convention No. 182 was registered on 22 March 2000. The instruments adopted at the 88th Session of the Conference were submitted to Parliament on 5 November 2001.

United States. The ratification of Convention No. 182 was registered on 2 December 1999.

Uruguay. The ratification of Convention No. 182 was registered on 3 August 2001.

Viet Nam. The ratification of Convention No. 182 was registered on 19 December 2000.

Yemen. The ratification of Convention No. 182 was registered on 15 June 2000.

Zimbabwe. The ratification of Convention No. 182 was registered on 11 December 2000.

The Committee has deemed it necessary in certain cases to request additional information on the nature of the competent authorities to which instruments adopted by the Conference have been submitted.

Appendix VII. Index to comments made by the Committee, by country

The comments referred to below have been drawn up in the form of either "observations" which are reproduced in this report , or "direct requests", which are not published , but are communicated directly to the governments concerned.

Afghanistan	**Part One. General Report, paragraphs nos. 90, 101, 135, 141** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 105, 111** *Direct requests on Conventions Nos. 105, 137, 140* **Part Two III. Observation on Submission**
Albania	*Direct requests on Conventions Nos. 16, 87, 105, 111, 144, 151* **Part Two III. Observation on Submission**
Algeria	**Part One. General Report, paragraphs nos. 90, 101** *General direct request* **Part Two IB: Observations on Conventions Nos. 32, 62, 81, 87, 105, 111, 127** *Direct requests on Conventions Nos. 24, 56, 69, 73, 77, 78, 81, 87, 94, 95, 97, 105, 108, 111, 122, 138* **Part Two III. Observation on Submission**
Angola	**Part One. General Report, paragraphs nos. 96, 136** **Part Two IB: Observations on Conventions Nos. 26, 81** *Direct requests on Conventions Nos. 19, 29, 81, 98, 107* **Part Two III. Observation on Submission**
Antigua and Barbuda	**Part One. General Report, paragraphs nos. 90, 101** **Part Two IA: General observation** *Direct requests on Conventions Nos. 29, 81, 111, 138* *Direct request on Submission*
Argentina	**Part One. General Report, paragraph no. 96** **Part Two IB: Observations on Conventions Nos. 9, 32, 68, 87, 88, 95, 98** *Direct requests on Conventions Nos. 3, 13, 96, 98, 100, 115, 144* *Direct request on Submission*
Armenia	**Part One. General Report, paragraphs nos. 90, 97, 135** **Part Two IA: General observation** **Part Two III. Observation on Submission**
Australia	**Part Two IB: Observations on Conventions Nos. 29, 98, 122** *Direct requests on Conventions Nos. 69, 73, 81, 98, 100, 122* *Direct request on Submission*
Norfolk Island	*Direct requests on Conventions Nos. 42, 100, 122, 131*

Austria	**Part Two IB: Observations on Conventions Nos. 29, 87** *Direct requests on Conventions Nos. 24, 94, 95, 100, 122, 173* *Direct request on Submission*
Azerbaijan	**Part Two IB: Observations on Conventions Nos. 138, 151** *Direct requests on Conventions Nos. 11, 13, 16, 29, 69, 73, 77, 78, 95, 100, 113, 120, 122, 124, 138, 144, 149* *Direct request on Submission*
Bahamas	**Part One. General Report, paragraph no. 101** **Part Two IB: Observations on Conventions Nos. 105, 144** *Direct requests on Conventions Nos. 22, 26, 29, 95, 98, 105* *Direct request on Submission*
Bahrain	*Direct requests on Conventions Nos. 81, 159* *Direct request on Submission*
Bangladesh	**Part Two IB: Observations on Conventions Nos. 11, 29, 87, 98, 107** *Direct requests on Conventions Nos. 16, 32, 87, 100* **Part Two III. Observation on Submission**
Barbados	**Part One. General Report, paragraphs nos. 90, 96, 101** *General direct request* **Part Two IB: Observations on Conventions Nos. 81, 108, 115, 118** *Direct requests on Conventions Nos. 81, 95, 98, 100, 102, 105, 111, 122, 128, 144, 172*
Belarus	**Part Two IB: Observations on Conventions Nos. 87, 95, 100** *Direct requests on Conventions Nos. 14, 29, 77, 78, 87, 95, 98, 100, 106, 122, 138, 144, 151, 154*
Belgium	**Part Two IB: Observation on Convention No. 105** *Direct requests on Conventions Nos. 26, 62, 73, 77, 95, 97, 100, 115, 122, 171* *Direct request on Submission*
Belize	**Part One. General Report, paragraphs nos. 90, 97, 101, 136** **Part Two IA: General observation** *General direct request* **Part Two IB: Observations on Conventions Nos. 81, 87, 98, 105** *Direct requests on Conventions Nos. 22, 29, 81, 88, 95, 105, 115* **Part Two III. Observation on Submission**
Benin	**Part Two IB: Observation on Convention No. 105** *Direct requests on Conventions Nos. 6, 13, 29, 95, 143* *Direct request on Submission*

Bolivia	**Part One. General Report, paragraphs nos. 90, 101, 135** *General direct request* **Part Two IB: Observations on Conventions Nos. 14, 20, 77, 78, 81, 95, 98, 102, 103, 105, 111, 121, 128, 130, 131, 136** *Direct requests on Conventions Nos. 81, 95, 98, 105, 111, 117, 122, 123, 124, 131, 138, 160* **Part Two III. Observation on Submission**
Bosnia and Herzegovina	**Part One. General Report, paragraphs nos. 90, 101, 136, 141** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 81, 87, 111, 158** *Direct request on Convention No. 122* **Part Two III. Observation on Submission**
Botswana	**Part One. General Report, paragraph no. 96** *Direct requests on Conventions Nos. 87, 95, 98, 100, 144, 151, 173* *Direct request on Submission*
Brazil	**Part Two IB: Observations on Conventions Nos. 29, 94, 95, 98, 111, 115, 117, 122** *Direct requests on Conventions Nos. 16, 22, 53, 97, 98, 100, 113, 115, 117, 122, 134, 140, 144, 163, 164* **Part Two III. Observation on Submission**
Bulgaria	**Part Two IB: Observation on Convention No. 95** *Direct requests on Conventions Nos. 16, 22, 23, 26, 32, 53, 62, 69, 71, 73, 77, 78, 94, 95, 98, 100, 106, 113, 138, 144*
Burkina Faso	**Part Two IB: Observations on Conventions Nos. 6, 18, 29, 81, 129** *Direct requests on Conventions Nos. 17, 29, 81, 95, 98, 100, 111, 141, 143, 159, 173* **Part Two III. Observation on Submission**
Burundi	**Part One. General Report, paragraph no. 96** **Part Two IB: Observations on Conventions Nos. 11, 29, 62, 87, 94** *Direct requests on Conventions Nos. 17, 26, 29, 81, 98, 144* **Part Two III. Observation on Submission**
Cambodia	**Part One. General Report, paragraphs nos. 90, 135** *General direct request* *Direct request on Convention No. 13* **Part Two III. Observation on Submission**
Cameroon	**Part One. General Report, paragraphs nos. 96, 135** **Part Two IB: Observations on Conventions Nos. 9, 29, 78, 87, 94, 105** *Direct requests on Conventions Nos. 16, 29, 45, 77, 81, 89, 94, 95, 105, 146* **Part Two III. Observation on Submission**

Canada	**Part Two IB: Observations on Conventions Nos. 100, 105** *Direct requests on Conventions Nos. 32, 73, 100, 122*
Cape Verde	**Part One. General Report, paragraph no. 96** **Part Two IB: Observations on Conventions Nos. 81, 98** *Direct requests on Conventions Nos. 17, 19, 81, 100, 118* **Part Two III. Observation on Submission**
Central African Republic	**Part One. General Report, paragraphs nos. 96, 136** **Part Two IB: Observations on Conventions Nos. 18, 19, 29, 41, 52, 62, 87, 94, 95, 118** *Direct requests on Conventions Nos. 17, 29, 95, 98, 100, 118* **Part Two III. Observation on Submission**
Chad	**Part One. General Report, paragraph no. 97** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 26, 29, 81, 111** *Direct requests on Conventions Nos. 14, 29, 41, 81, 100, 111, 135, 144* **Part Two III. Observation on Submission**
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Hong Kong Special Administrative Region	**Part Two IB: Observation on Convention No. 17** *Direct requests on Conventions Nos. 17, 29, 32, 97, 98, 108, 150*
Macau Special Administrative Region	*Direct request on Convention No. 98*
Colombia	**Part Two IB: Observations on Conventions Nos. 81, 87, 95, 98, 106, 129** *Direct requests on Conventions Nos. 6, 81, 88, 100, 111, 129* **Part Two III. Observation on Submission**
Comoros	**Part One. General Report, paragraphs nos. 90, 135** *General direct request* **Part Two IB: Observations on Conventions Nos. 13, 26, 81, 95, 98, 99** *Direct requests on Conventions Nos. 19, 95, 101, 122* **Part Two III. Observation on Submission**
Congo	**Part One. General Report, paragraphs nos. 90, 96, 135** *General direct request* **Part Two IB: Observations on Conventions Nos. 29, 87, 95** *Direct request on Convention No. 152* **Part Two III. Observation on Submission**

Costa Rica	**Part One. General Report, paragraphs nos. 96, 101** **Part Two IB: Observations on Conventions Nos. 14, 81, 94, 95, 98, 102, 106, 122, 134, 148** *Direct requests on Conventions Nos. 16, 81, 94, 100, 102, 111, 144, 145* **Part Two III. Observation on Submission**
Côte d'Ivoire	**Part One. General Report, paragraphs nos. 90, 96, 101** *General direct request* **Part Two IB: Observations on Conventions Nos. 29, 33, 52, 95, 98, 129, 144** *Direct requests on Conventions Nos. 13, 29, 33, 81, 111, 129, 133* *Direct request on Submission*
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Cuba	**Part Two IB: Observations on Conventions Nos. 52, 87** *Direct requests on Conventions Nos. 16, 22, 52, 77, 78, 122, 145* *Direct request on Submission*
Cyprus	**Part One. General Report, paragraph no. 96** **Part Two IB: Observation on Convention No. 95** *Direct requests on Conventions Nos. 23, 97, 100, 111, 143, 147, 152, 155, 171, 172* *Direct request on Submission*
Czech Republic	**Part One. General Report, paragraph no. 96** **Part Two IB: Observations on Conventions Nos. 11, 98, 100, 111** *Direct requests on Conventions Nos. 10, 17, 19, 77, 78, 87, 95, 98, 100, 105, 124, 161, 171*
Democratic Republic of the Congo	**Part One. General Report, paragraphs nos. 90, 96, 101** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 29, 94, 98, 118, 119, 121, 158** *Direct requests on Conventions Nos. 26, 29, 62, 88, 95, 100, 102, 117, 150* **Part Two III. Observation on Submission**
Denmark	**Part One. General Report, paragraphs nos. 96, 101** **Part Two IB: Observations on Conventions Nos. 29, 53, 98, 115, 169** *Direct requests on Conventions Nos. 81, 94, 102, 111, 115, 122, 139, 169* *Direct request on Submission*
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Greenland	*Direct requests on Conventions Nos. 14, 106, 122*
Djibouti	**Part One. General Report, paragraph no. 90** *General direct request* **Part Two IB: Observations on Conventions Nos. 81, 94, 95, 100** *Direct requests on Conventions Nos. 9, 19, 22, 23, 26, 29, 69, 73, 95, 96, 99, 100, 106, 108, 122* **Part Two III. Observation on Submission**
Dominica	**Part One. General Report, paragraphs nos. 101, 136** **Part Two IB: Observations on Conventions Nos. 87, 138** *Direct requests on Conventions Nos. 16, 81, 95, 100, 111, 138* **Part Two III. Observation on Submission**
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Ecuador	**Part Two IB: Observations on Conventions Nos. 77, 78, 81, 87, 98, 111, 148, 152** *Direct requests on Conventions Nos. 81, 87, 88, 95, 97, 100, 111, 123, 124, 144, 148, 152* *Direct request on Submission*
Egypt	**Part Two IB: Observations on Conventions Nos. 55, 73, 87, 92, 94, 95, 98, 105, 139** *Direct requests on Conventions Nos. 22, 23, 29, 68, 73, 87, 88, 105, 111, 115, 144, 145, 147*
El Salvador	**Part Two IB: Observation on Convention No. 122** *Direct requests on Conventions Nos. 81, 105, 111, 122, 131, 144* **Part Two III. Observation on Submission**
Equatorial Guinea	**Part One. General Report, paragraphs nos. 90, 97, 101, 141** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 1, 30** *Direct request on Convention No. 138* **Part Two III. Observation on Submission**
Eritrea	**Part Two IB: Observation on Convention No. 111** **Part Two III. Observation on Submission**
Estonia	**Part Two IB: Observation on Convention No. 98** *Direct requests on Conventions Nos. 14, 16, 29, 108*
Ethiopia	**Part One. General Report, paragraphs nos. 90, 101** *General direct request* **Part Two IB: Observations on Conventions Nos. 87, 98, 111, 155, 158** *Direct requests on Conventions Nos. 98, 111, 155, 156* *Direct request on Submission*

Fiji	**Part One. General Report, paragraphs nos. 90, 97, 101, 141** **Part Two IA: General observation** **Part Two IB: Observation on Convention No. 98** *Direct requests on Conventions Nos. 8, 29, 105* **Part Two III. Observation on Submission**
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France	**Part One. General Report, paragraph no. 96** **Part Two IB: Observations on Conventions Nos. 22, 29, 53, 81, 122, 134, 139** *Direct requests on Conventions Nos. 16, 22, 29, 62, 69, 74, 81, 95, 97, 105, 122, 133, 137, 140, 144, 145, 152* *Direct request on Submission*
French Guiana	**Part One. General Report, paragraph no. 101** **Part Two IIB: Observations on Conventions Nos. 32, 53, 81, 115, 129** *Direct requests on Conventions Nos. 16, 62, 94, 95, 111, 115, 142, 144, 145, 149*
French Polynesia	**Part Two IIB: Observations on Conventions Nos. 19, 53, 81, 82** *Direct requests on Conventions Nos. 16, 22, 69, 94, 95, 122, 144, 149*
French Southern and Antarctic Territories	**Part Two IIB: Observations on Conventions Nos. 8, 16, 22, 73, 98, 134** *Direct requests on Conventions Nos. 53, 58, 108, 111, 133*
Guadeloupe	**Part One. General Report, paragraph no. 101** **Part Two IIB: Observations on Conventions Nos. 32, 53, 62** *Direct requests on Conventions Nos. 16, 81, 94, 95, 111, 131, 133, 145*
Martinique	**Part Two IIB: Observations on Conventions Nos. 22, 32, 53, 81, 129** *Direct requests on Conventions Nos. 16, 62, 94, 95, 133, 142, 145*
New Caledonia	**Part One. General Report, paragraphs nos. 90, 101** *General direct request* **Part Two IIB: Observations on Conventions Nos. 81, 127** *Direct requests on Conventions Nos. 10, 16, 33, 53, 94, 95, 122, 144*
Réunion	**Part One. General Report, paragraph no. 101** **Part Two IIB: Observations on Conventions Nos. 22, 32, 53** *Direct requests on Conventions Nos. 16, 62, 81, 111, 144, 145, 149*
St. Pierre and Miquelon	**Part Two IIB: Observations on Conventions Nos. 22, 53, 81** *Direct requests on Conventions Nos. 16, 122, 131, 145, 149*
Gabon	**Part One. General Report, paragraphs nos. 96, 101** **Part Two IB: Observations on Conventions Nos. 81, 98, 144, 158** *Direct requests on Conventions Nos. 14, 41, 81, 87, 95, 100, 106, 111, 124, 150, 154* **Part Two III. Observation on Submission**
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Georgia	**Part One. General Report, paragraphs nos. 96, 141** *Direct request on Convention No. 98* **Part Two III. Observation on Submission**
Germany	**Part Two IB: Observations on Conventions Nos. 22, 29, 98, 115** *Direct requests on Conventions Nos. 97, 115, 122* *Direct request on Submission*
Ghana	**Part One. General Report, paragraph no. 96** **Part Two IB: Observations on Conventions Nos. 87, 94, 103, 105** *Direct requests on Conventions Nos. 22, 29, 74, 105, 111, 149* *Direct request on Submission*
Greece	**Part One. General Report, paragraph no. 96** **Part Two IB: Observations on Conventions Nos. 95, 100** *Direct requests on Conventions Nos. 62, 69, 81, 100, 122, 134, 144*
Grenada	**Part One. General Report, paragraphs nos. 90, 97, 101, 135, 141** **Part Two IA: General observation** *General direct request* **Part Two IB: Observations on Conventions Nos. 26, 99** *Direct requests on Conventions Nos. 10, 81, 94, 97, 105, 144* **Part Two III. Observation on Submission**
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Guinea	**Part One. General Report, paragraphs nos. 90, 101, 141** *General direct request* **Part Two IB: Observations on Conventions Nos. 81, 94, 98, 105, 111, 115, 118, 121, 122** *Direct requests on Conventions Nos. 10, 16, 29, 33, 62, 95, 111, 113, 117, 118, 139, 140, 144, 149, 152, 159* **Part Two III. Observation on Submission**
Guinea-Bissau	**Part One. General Report, paragraphs nos. 136, 141** **Part Two IB: Observations on Conventions Nos. 18, 19, 45, 69, 81** *Direct requests on Conventions Nos. 7, 12, 17, 26, 68, 73, 74, 81, 91, 92, 98, 105, 108* **Part Two III. Observation on Submission**
Guyana	**Part Two IB: Observation on Convention No. 139** *Direct requests on Conventions Nos. 95, 98, 100, 115, 131, 138, 140, 144, 166, 172* *Direct request on Submission*

Haiti	**Part One. General Report, paragraphs nos. 90, 101, 135** *General direct request* **Part Two IB: Observations on Conventions Nos. 24, 25, 29, 87, 98** *Direct requests on Conventions Nos. 14, 29, 81, 87, 106, 111* **Part Two III. Observation on Submission**
Honduras	**Part Two IB: Observations on Conventions Nos. 81, 87, 98, 111, 122** *Direct requests on Conventions Nos. 78, 81, 95, 100, 111* **Part Two III. Observation on Submission** *Direct request on Submission*
Hungary	**Part One. General Report, paragraph no. 96** **Part Two IB: Observations on Conventions Nos. 122, 127** *Direct requests on Conventions Nos. 14, 17, 24, 29, 77, 78, 88, 95, 100, 127, 129, 145* *Direct request on Submission*
Iceland	**Part One. General Report, paragraph no. 141** **Part Two IB: Observation on Convention No. 98** *Direct requests on Conventions Nos. 102, 122* *Direct request on Submission*
India	**Part One. General Report, paragraph no. 96** **Part Two IB: Observations on Conventions Nos. 11, 81, 100, 115, 118** *Direct requests on Conventions Nos. 16, 22, 100, 115* **Part Two III. Observation on Submission**
Indonesia	**Part Two IB: Observations on Conventions Nos. 98, 144** *Direct requests on Conventions Nos. 87, 100* *Direct request on Submission*
Islamic Republic of Iran	**Part One. General Report, paragraph no. 96** **Part Two IB: Observation on Convention No. 111** *Direct requests on Conventions Nos. 19, 95, 100, 106, 108, 122* *Direct request on Submission*
Iraq	**Part One. General Report, paragraphs nos. 90, 101, 141** *General direct request* **Part Two IB: Observations on Conventions Nos. 13, 19, 98, 105, 111, 115, 118, 122** *Direct requests on Conventions Nos. 81, 100, 105, 108, 118, 139, 144, 152* *Direct request on Submission*
Ireland	**Part One. General Report, paragraph no. 97** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 23, 53** *Direct requests on Conventions Nos. 16, 73, 81, 100, 122, 132, 139, 147, 155* *Direct request on Submission*

Israel	**Part Two IB: Observation on Convention No. 111** *Direct requests on Conventions Nos. 77, 78, 81, 95, 97, 98, 100, 111, 122, 134*
Italy	**Part Two IB: Observations on Conventions Nos. 95, 127** *Direct requests on Conventions Nos. 16, 53, 73, 74, 77, 78, 81, 97, 105, 134, 143*
Jamaica	**Part One. General Report, paragraph no. 96** **Part Two IB: Observations on Conventions Nos. 8, 87, 98, 105** *Direct requests on Conventions Nos. 97, 100, 111, 122, 144, 149* *Direct request on Submission*
Japan	**Part Two IB: Observations on Conventions Nos. 29, 87, 98, 100, 122, 156** *Direct requests on Conventions Nos. 73, 115, 156*
Jordan	**Part Two IB: Observations on Conventions Nos. 98, 106** *Direct requests on Conventions Nos. 100, 105* *Direct request on Submission*
Kazakhstan	**Part One. General Report, paragraphs nos. 90, 135** *General direct request* **Part Two III. Observation on Submission**
Kenya	**Part Two IB: Observations on Conventions Nos. 17, 29, 98, 105, 129** *Direct requests on Conventions Nos. 16, 19, 29, 32, 105, 149* **Part Two III. Observation on Submission**
Kiribati	*Direct request on Submission*
Republic of Korea	**Part Two IB: Observation on Convention No. 122** *Direct requests on Conventions Nos. 73, 111, 122, 160*
Kuwait	**Part Two IB: Observations on Conventions Nos. 87, 105, 117** *Direct request on Convention No. 159* *Direct request on Submission*
Kyrgyzstan	**Part One. General Report, paragraphs nos. 90, 97, 101, 135** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 87, 95** *Direct requests on Conventions Nos. 14, 29, 52, 77, 78, 79, 87, 95, 98, 100, 122, 124, 148, 149, 159, 160* **Part Two III. Observation on Submission**
Lao People's Democratic Republic	**Part One. General Report, paragraphs nos. 101, 141** *Direct requests on Conventions Nos. 4, 13* **Part Two III. Observation on Submission**

Latvia	**Part One. General Report, paragraph no. 135** **Part Two IB: Observations on Conventions Nos. 111, 115** *Direct requests on Conventions Nos. 9, 12, 13, 17, 18, 24, 98, 100, 106, 111, 115, 144, 149, 151, 154, 158* **Part Two III. Observation on Submission**
Lebanon	**Part Two IB: Observation on Convention No. 98** *Direct requests on Conventions Nos. 29, 71, 95, 100, 106, 115, 122* *Direct request on Submission*
Lesotho	**Part One. General Report, paragraph no. 96** **Part Two IB: Observations on Conventions Nos. 87, 98** *Direct requests on Conventions Nos. 98, 111, 144* **Part Two III. Observation on Submission**
Liberia	**Part One. General Report, paragraphs nos. 90, 97, 101, 141** **Part Two IA: General observation** *General direct request* **Part Two IB: Observations on Conventions Nos. 22, 29, 55, 87, 98, 105, 113, 114, 133** *Direct requests on Conventions Nos. 29, 53, 111, 147* *Direct request on Submission*
Libyan Arab Jamahiriya	**Part One. General Report, paragraph no. 96** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 88, 95, 98, 105, 122** *Direct requests on Conventions Nos. 53, 89, 95, 100, 138* *Direct request on Submission*
Lithuania	*Direct requests on Conventions Nos. 14, 24, 29, 73, 98, 111, 138, 144*
Luxembourg	*Direct requests on Conventions Nos. 13, 22, 55, 56, 69, 73, 77, 78, 92, 100, 138, 147* *Direct request on Submission*
Madagascar	**Part One. General Report, paragraph no. 136** **Part Two IB: Observation on Convention No. 29** *Direct requests on Conventions Nos. 29, 88, 95, 98, 122, 144, 159, 173* **Part Two III. Observation on Submission**
Malawi	**Part Two IB: Observation on Convention No. 100** *Direct requests on Conventions Nos. 87, 89, 97, 100, 107, 144, 149* *Direct request on Submission*
Malaysia	*General direct request* **Part Two IB: Observations on Conventions Nos. 81, 98** *Direct requests on Conventions Nos. 95, 100, 138*
Peninsular Malaysia	*General direct request* **Part Two IB: Observation on Convention No. 19**

Sabah	**Part One. General Report, paragraph no. 96** *Direct request on Convention No. 94*
Sarawak	**Part One. General Report, paragraph no. 96** *General direct request* **Part Two IB: Observation on Convention No. 19**
Mali	**Part One. General Report, paragraphs nos. 96, 136** **Part Two IB: Observation on Convention No. 29** *Direct requests on Conventions Nos. 13, 95, 98, 100, 105, 159* **Part Two III. Observation on Submission**
Malta	**Part Two IB: Observation on Convention No. 77** *Direct requests on Conventions Nos. 16, 22, 32, 73, 77, 78, 100, 106, 117, 149* *Direct request on Submission*
Mauritania	**Part One. General Report, paragraph no. 96** **Part Two IB: Observations on Conventions Nos. 3, 29, 87, 95, 122** *Direct requests on Conventions Nos. 17, 22, 29, 62, 91, 94, 112, 114* **Part Two III. Observation on Submission**
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Mexico	**Part Two IB: Observations on Conventions Nos. 90, 100, 111, 169** *Direct requests on Conventions Nos. 19, 55, 96, 100, 111, 115, 118, 134, 164, 169*
Republic of Moldova	**Part One. General Report, paragraph no. 96** **Part Two IB: Observations on Conventions Nos. 87, 95, 98, 135, 154** *Direct requests on Conventions Nos. 87, 95* *Direct request on Submission*
Mongolia	**Part One. General Report, paragraphs nos. 90, 97, 101** **Part Two IA: General observation** *General direct request* *Direct requests on Conventions Nos. 87, 100, 103, 111, 122, 123* **Part Two III. Observation on Submission**
Morocco	**Part Two IB: Observations on Conventions Nos. 52, 98, 100, 122, 129** *Direct requests on Conventions Nos. 22, 100, 106, 129, 145* *Direct request on Submission*
Mozambique	*Direct requests on Conventions Nos. 98, 100, 122, 144* *Direct request on Submission*

Myanmar	**Part One. General Report, paragraph no. 101** **Part Two IB: Observations on Conventions Nos. 17, 29, 52, 87** *Direct request on Convention No. 22* *Direct request on Submission*
Namibia	*Direct request on Convention No. 98*
Nepal	**Part One. General Report, paragraph no. 101** **Part Two IB: Observation on Convention No. 111** *Direct requests on Conventions Nos. 98, 100, 111, 131, 138, 144* *Direct request on Submission*
Netherlands	**Part Two IB: Observations on Conventions Nos. 98, 111** *Direct requests on Conventions Nos. 62, 73, 94, 97, 100, 111, 122, 145*
Aruba	**Part One. General Report, paragraphs nos. 90, 101** *General direct request* **Part Two IIB: Observations on Conventions Nos. 87, 94, 95, 101, 122, 137, 138, 140, 144, 145** *Direct requests on Conventions Nos. 14, 25, 29, 81, 105, 121, 131, 135, 138*
Netherlands Antilles	**Part One. General Report, paragraph no. 96** *Direct requests on Conventions Nos. 10, 33, 81, 87, 94, 95, 122*
New Zealand	**Part Two IB: Observations on Conventions Nos. 17, 32, 100, 145** *Direct requests on Conventions Nos. 17, 29, 63, 74, 81, 97, 100, 122, 134, 144*
Tokelau	*Direct request on Convention No. 100*
Nicaragua	**Part Two IB: Observations on Conventions Nos. 8, 95, 122** *Direct requests on Conventions Nos. 24, 25, 95, 98, 100, 111, 122, 138, 139, 144*
Niger	**Part One. General Report, paragraph no. 96** **Part Two IB: Observations on Conventions Nos. 29, 81, 95, 156** *Direct requests on Conventions Nos. 29, 95, 100, 105, 156* *Direct request on Submission*
Nigeria	**Part One. General Report, paragraphs nos. 90, 101, 141** *General direct request* **Part Two IB: Observations on Conventions Nos. 26, 87, 88, 97, 100, 105, 123, 134** *Direct requests on Conventions Nos. 19, 29, 81, 95, 98, 100, 133, 144* **Part Two III. Observation on Submission**
Norway	**Part Two IB: Observations on Conventions Nos. 22, 53, 87, 98, 115, 129** *Direct requests on Conventions Nos. 73, 95, 102, 115, 122, 143, 145, 152, 164*
Oman	*Direct request on Submission*

Pakistan	**Part One. General Report, paragraph no. 136** **Part Two IB: Observations on Conventions Nos. 29, 32, 81, 87, 98, 105, 111, 144** *Direct requests on Conventions Nos. 16, 87, 105* **Part Two III. Observation on Submission**
Panama	**Part Two IB: Observations on Conventions Nos. 53, 55, 56, 68, 87, 94, 98, 111** *Direct requests on Conventions Nos. 16, 22, 69, 73, 74, 77, 78, 95, 100, 111, 122, 125* *Direct request on Submission*
Papua New Guinea	**Part.Two IB: Observations on Conventions Nos. 98, 105** *Direct requests on Conventions Nos. 29, 122* *Direct request on Submission*
Paraguay	**Part One. General Report, paragraphs nos. 90, 96, 101** *General direct request* **Part Two IB: Observations on Conventions Nos. 60, 77, 78, 79, 81, 87, 90, 98, 111, 115** *Direct requests on Conventions Nos. 60, 81, 87, 95, 117, 123* *Direct request on Submission*
Peru	**Part One. General Report, paragraph no. 96** **Part Two IB: Observations on Conventions Nos. 1, 24, 25, 55, 56, 71, 81, 88, 98, 102, 152** *Direct requests on Conventions Nos. 68, 73, 77, 78, 81, 100, 102, 111, 122, 139, 152* *Direct request on Submission*
Philippines	**Part Two IB: Observations on Conventions Nos. 87, 94, 98, 105** *Direct requests on Conventions Nos. 53, 95, 105, 118, 122, 138, 149, 157*
Poland	**Part Two IB: Observation on Convention No. 149** *Direct requests on Conventions Nos. 16, 29, 62, 69, 73, 95, 100, 113, 122, 144, 145, 149*
Portugal	**Part Two IB: Observations on Conventions Nos. 8, 77, 81, 98, 122, 129, 171** *Direct requests on Conventions Nos. 69, 73, 74, 77, 78, 97, 100, 108, 129, 143, 144, 149, 159, 171* *Direct request on Submission*
Qatar	**Part Two IB: Observations on Conventions Nos. 81, 111** *Direct requests on Conventions Nos. 81, 111* *Direct request on Submission*
Romania	*Direct requests on Conventions Nos. 16, 24, 95, 98, 122, 144*
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Rwanda	**Part Two IB: Observations on Conventions Nos.. 11, 87, 98** *Direct requests on Conventions Nos. 62, 100* **Part Two III. Observation on Submission**
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Saint Vincent and the Grenadines	**Part One. General Report, paragraphs nos. 90, 101, 141** *General direct request* **Part Two IB: Observation on Convention No. 16** *Direct requests on Conventions Nos. 5, 7, 10, 11, 26, 81, 94, 95, 98, 105* *Direct request on Submission*
San Marino	*Direct requests on Conventions Nos. 100, 103, 138* *Direct request on Submission*
Sao Tome and Principe	**Part One. General Report, paragraphs nos. 90, 101, 135, 141** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos.. 18, 19, 87, 88, 144, 159** *Direct requests on Conventions Nos. 17, 19, 81, 98., 100, 111* **Part Two III. Observation on Submission**
Saudi Arabia	**Part Two IB: Observations on Conventions Nos.. 81, 106, 111** *Direct requests on Conventions Nos. 81, 111* *Direct request on Submission*
Senegal	**Part One. General Report, paragraph no. 136** *Direct requests on Conventions Nos. 13, 19, 95, 122, 125* **Part Two III. Observation on Submission**
Seychelles	**Part Two IB: Observation on Convention No. 8** *Direct requests on Conventions Nos. 8, 26, 98, 99, 108, 149, 151* **Part Two III. Observation on Submission**
Sierra Leone	**Part One. General Report, paragraphs nos. 90, 101, 135, 141** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 8, 17, 29, 59, 81, 88, 98, 101, 105, 111, 119, 125, 144** *Direct requests on Conventions Nos. 26, 29, 95, 99, 100, 111, 126* **Part Two III. Observation on Submission**
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Slovakia	**Part One. General Report, paragraphs nos. 90, 96, 101** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 87, 159** *Direct requests on Conventions Nos. 12, 19, 29, 90, 95, 100, 102, 111, 115, 122, 123, 128, 130, 142, 144, 148, 155, 173*
Slovenia	**Part One. General Report, paragraphs nos. 90, 96, 101** *General direct request* *Direct requests on Conventions Nos. 13, 16, 19, 24, 25, 29, 53, 56, 69, 73, 74, 87, 98, 100, 102, 105, 111, 113, 121, 139, 143, 148* *Direct request on Submission*
Solomon Islands	**Part One. General Report, paragraphs nos. 90, 101, 135, 141** **Part Two IA: General observation** **Part Two IB: Observation on Convention No. 8** *Direct requests on Conventions Nos. 14, 16, 29, 81, 95* **Part Two III. Observation on Submission**
Somalia	**Part One. General Report, paragraph no. 135** **Part Two III. Observation on Submission**
South Africa	*Direct requests on Conventions Nos. 98, 105, 111* *Direct request on Submission*
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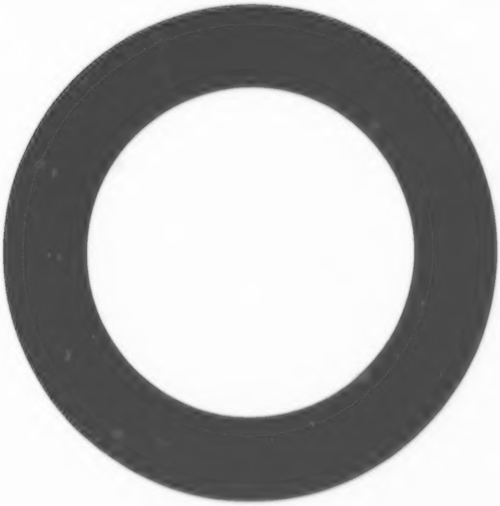

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